

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1070

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IN THE
United States Court of Appeals
For the Second Circuit

UNITED STATES OF AMERICA,
Appellee,
against
WILLIAM E. DOULIN,
Defendant-Appellant.

On Appeal from the United States District Court
for the Southern District of New York

APPENDIX
VOLUME IV OF FIVE VOLUMES
(Pages 841 to 1164)

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THE COURT: You may proceed, Mr. Jossen.

MR. JOSSEN: Your Honor, at this time the Government would offer into evidence what has previously been marked as Government's Exhibit 19 for identification, a stipulation between parties.

(Government's Exhibit 19 was received in evidence.)

THE COURT: Mr. Platzman, is that stipulation agreeable to you and is the offer agreeable as well?

MR. PLATZMAN: Yes. I signed the stipulation and it is agreeable to me.

MR. JOSSEN: Your Honor, I request permission to read the stipulation to the jury.

THE COURT: You may do so. The stipulation is now Government's Exhibit 19 in evidence.

(Mr. Jossen read Government's Exhibit No. 19 to the jury.)

MR. JOSSEN: Your Honor, at this time the Government offers into evidence Government's Exhibits 20, 21 and 22 for identification.

MR. PLATZMAN: I have no objection.

THE COURT: Government's Exhibits 20, 21 and 22 which have just been described in the stipulation and are, I understand, the same receipts, are being offered at this time without objection.

1 2 GWmch

2 (Government's Exhibits Nos. 20, 21 and 22 were
3 received in evidence.)

4 MR. JOSSEN: Your Honor, at this time the
5 Government offers into evidence what has previously been
6 marked as Government's Exhibit 23 for identification,
7 which is another stipulation between the parties.

8 THE COURT: Mr. Platzman, we have gone through
9 this previously. You indicated your position on the
10 matter. You can state it.

11 MR. PLATZMAN: Yes, your Honor.

12 I have signed that stipulation and I agree to
13 the contents and I am accepting it, and I don't object
14 to the stipulation being introduced into evidence.

15 THE COURT: Government's Exhibit 23 received;
16 no objection.

17 (Government's Exhibit No. 23 was received in
18 evidence.)

19 MR. JOSSEN: At this time I request permission
20 to read the stipulation to the jury.

21 THE COURT: You may.

22 (Mr. Jossen read Government's Exhibit No. 23
23 to the jury.)

24 MR. JOSSEN: Your Honor, at this time the
25 Government will read to the jury portions of Mr. Doulin's

1 3 GwMch

"Doulin

2 grand jury testimony as identified in the stipulation
3 which I have just read.

4 What the Government proposes to do, Mr. Schwartz
5 will take the part of the questioner and ask the questions
6 and I will take the part of Mr. Doulin and read Mr.
7 Doulin's answers.

8 THE COURT: Before you proceed, let me just
9 indicate to the jury what the situation is here.

10 The Government will present such portions of
11 Mr. Doulin's grand jury testimony in question and answer
12 form as they deem appropriate to their case. Then, later,
13 Mr. Platzman will have the opportunity, if he wishes, to
14 read any additional portions of the testimony which the
15 Government has chosen not to read in connection with his
16 defense of this case.

17 Is that agreeable, gentlemen?

18 MR. PLATZMAN: Yes, your Honor.

19 MR. JOSSEN: Yes, your Honor.

20 THE COURT: Very well. You may proceed.

21 MR. SCHWARTZ: Reading from Government's
22 Exhibit 24, beginning at Page 2:

23 "Q What is your full name?

24 "A William E. Doulin, D-o-u-l-i-n.

25 "Q Mr. Doulin, my name is Edward Shaw, I'm an

1 4 GwMch

"Doulin

2 attorney with the Justice Department. And this is a
3 Federal Grand Jury before which you are seated.

4 "You should understand that in connection with
5 the testimony before this Grand Jury, you have the right
6 to refuse to answer any question that I might ask you if
7 you feel that the answer to that question might tend to
8 incriminate you personally.

9 "Do you understand that?

10 "A Yes, I do.

11 "Q You should also understand that the gentleman
12 seated on your left is taking down what I'm saying and
13 anything that you say and that could be used against you
14 in any court proceeding to the extent that you do testify
15 here.

16 "Do you understand that?

17 "A I understand.

18 "Q You should also understand that you have the
19 right to ask to be excused at any time to confer with an
20 attorney in connection with any question that I might
21 want to ask you here.

22 "Do you understand that?

23 "A I understand.

24 "Q You should also understand that -- you should
25 understand what this investigation is all about. This

1 5 Gwmch

"Doulin

2 Grand Jury, sir, is conducting an investigation concerning
3 possible violations of various federal criminal statutes,
4 broadly having to do with the area of official corruption,
5 broadly defined, in Orange County and related counties.
6 That means that the Grand Jury is concerned with violations
7 of federal criminal laws that have to do with such areas
8 as any attempt to influence the enforcement of the local
9 gambling laws illegally or any use of the mails or --
10 excuse me -- any use of the mails in connection with any
11 type of fraud that would involve a fraud on the local
12 government or anything of that kind. In other words, the
13 whole range of possible federal criminal statutes that could
14 touch upon obstruction of local law enforcement or of local
15 government in any way.

16 "Do you understand?

17 "A I understand.

18 "Q You should also understand that the Grand Jury
19 is concerned to determine whether or not you personally
✓ 20 have in any way been involved in any violation of any federal
21 criminal statutes which are of the kind that I've just
22 described to you.

23 "Do you understand that, sir?

24 "A I do.

25 "Q I point that out now particularly because that

1 6 Gwmch

"Doulin

2 means that you should understand that you personally are
3 a subject of this Grand Jury's inquiry in the sense that
4 they want to determine whether there is any evidence
5 indicating that you personally may have violated any of
6 the kinds of laws that I'm referring to.

7 "Do you understand that?

8 "A Yes.

9 "Q Now, that really accounts for what I had wanted
10 to give you by way of advice of the situation. Is there
11 anything that you would like to ask me about before we
12 proceed?

13 "A Well, nothing, only that I would like you
14 to explain the section that I'm here for. I guess you
15 already did that.

16 "Q Well, I think the subpoena that you have referred
17 to the general federal conspiracy statute, Section 371
18 of Title 18. But as I've indicated, I'm perfectly happy to
19 be more precise as to --"

20 THE COURT: I think the inflection there might be
21 just a little different. Maybe it should read, "Well, I
22 think the subpoena you have" -- and then a pause -- "referred
23 to the general federal conspiracy statute" --

24 MR. SCHWARTZ: I think that's correct, your Honor.

25 THE COURT: -- "Section 371 of Title 18."

MR. SCHWARTZ: I will start that question again.

"Q Well, I think the subpoena you have referred to the general federal conspiracy statute, Section 371 of Title 18. But as I've indicated, I'm perfectly happy to be more precise as to what this Grand Jury is investigating. They are concerned with possible violations of federal criminal laws that relate to the obstruction of local law enforcement in one way or the other. Or to conduct, which broadly defined, would constitute official corruption. That is, improper influence on persons in position of public office.

"That's basically what the scope of the Grand Jury's investigation is.

"A I think I understand."

MR. SCHWARTZ: Page 6, Line 9:

"Q Do you have any business interest? Are you in business?

"A Yes, I am an undertaker. I've been in that profession for the last 45 years.

"Q Does that mean you or your family owns a corporation which is in that business?

"A I own the corporation.

"Q You own all of its stock?

"A Yes.

1 "Q Where is that corporation located?

2 "A 318 North Montgomery Street.

3 "Q In Newburgh?

4 "A Yes, I live upstairs.

5 "Q How long -- what is the name of that corporation?

6 "A Known as -- trade name is Doulin, Zillig."

7 MR. SCHWARTZ: Page 7, Line 8:

8 "Q Do you have any other business that you are in
9 or business interest, principal business interest?

10 "A No business. I'm a deputy commissioner of the
11 New York State Athletic Commission.

12 "Q Can you tell us just a little bit what that is?

13 "A Well, that is appointed by Commissioner Dooley
14 who is in turn appointed by the Governor. He appointed me
15 as a deputy and my duties are to supervise wrestling and
16 boxing upstate. In fact, Wednesday I have to go to
17 Gloversville and Friday go to Albany for wrestling. That's
18 what my duties are.

19 "Q Does that position hold any salary of any kind?

20 "A Yes, we get paid per diem. Right now we get --
21 I get, rather, \$100 a meeting and it was 15,000 a year
22 when I first started, but due to the cutback, the Governor's
23 cutback like every other thing in government we were cut
24 down to per diem. Beginning this month I imagine that we go
25

2 to an annual salary of 10,000 a year.

3 "Q Now, can you tell us, is it also true that you
4 hold an office with a party in your county?

5 "A I'm the Republican chairman of Orange County
6 Republican committee and have been for the last ten years.
7 Just reelected Wednesday night by convention. Unanimous.
8 I had no opposition.

9 "Q And that was the next question I was going to ask
10 you. You hold that position via a periodic election,
11 is that right, and who are the electors?

12 "A Well, the committeeman, he's elected. Each party
13 is entitled to two committeemen in each district by law.
14 Democrats have two. We have two. The Conservatives have
15 two. And the Liberal Party has two.

16 "Now, every Primary, that is, every two years we
17 have a Primary. We have to run for office. In our respective
18 districts. We are elected by the people. Now we have a
19 reorganization meeting of the various parties, in fact, the
20 Republican Party in this case we are talking about. Now,
21 all the committeemen, 404 committeemen throughout the county,
22 they have a convention and in that convention they select
23 their officers. And for the last ten years I've been
24 selected as their chairman. Elected by the committeemen who
25 are elected by the people.

1 10 GwmcH

"Doulin

2 "The first time I had opposition I ran against
3 another fellow and then was elected and since then I've
4 had no opposition.

5 "Q Let me turn to an area that is of principal
6 concern to us which has to do with the enforcement of
7 the gambling laws in your county among other counties, and
8 let me focus on what the ultimate question is insofar as
9 our interest in speaking with you, sir. We are concerned
10 about whether any public officials in Orange County ever
11 received any money or any other kind of valuable things in
12 return for playing any part in attempting to influence
13 the local law enforcement in that county.

14 "Do you understand that?

15 "A I understand the question.

16 "Q And my question I want to ask doesn't really go
17 so much to hearsay although we would be interested in any
18 such hearsay and it's appropriate before a Grand Jury."

19 MR. PLATZMAN: May it please the Court, may we
20 approach the bench?

21 THE COURT: Yes.

22 (At the side bar)

23 MR. PLATZMAN: I have not had the opportunity of
24 looking through each of these questions that they are asking.
25 If I were able to, I would read along and I could be able

1 11 Gwmch

2 to determine in advance whether some of these questions
3 are proper or improper. I don't want any material to
4 get before this jury that might be improper, and therefore
5 I would have the right to object to the questions and
6 answers.

7 THE COURT: You have obviously seen this
8 material because what he is reading now is taken from
9 grand jury minutes, Page 9, Line 9, and it is verbatim
10 Count 1 of the indictment.

11 MR. PLATZMAN: I have no objection to that
12 portion which is taken right from the indictment. But
13 with respect to other portions, fortunately, I have a man
14 who has gone through the portions that were marked out
15 last night. I don't know whether he is finished with them.
16 If I could have about ten or fifteen minutes to read
17 through the other portions -- if counsel wants to read
18 the portions of the indictment, I have no objection, but
19 any other collateral matter I do want to be able to
20 scrutinize.

21 The preliminary portions which he just read, it
22 was all historical and the warning and all that, which
23 is perfectly proper, but there is a risk that some of the
24 material he might be asking is not proper before this
25 jury. It might have been before a grand jury.

2 I would want the opportunity to object to it.

3 THE COURT: Let me inquire of counsel:

4 You have just started to read what would appear
5 to be the questions and answers which are the subject of
6 the indictment. As I indicated, grand jury minutes
7 Page 9, Line 9, starts with the material which is contained
8 in Count 1.

9 To what extent did you expect to read from the
10 minutes where the material is not set forth in the indictment?

11 MR. SCHWARTZ: Well, your Honor, that is a little
12 difficult to answer. That is why I gave Mr. Platzman
13 a copy of the portions. It might be helpful to look at my
14 own rough notes here, and in parentheses on the right
15 I have indicated where it is a count that I am reading rather
16 than something that is not in the indictment.

17 I think your Honor will see that with respect
18 to the first appearance in the grand jury, it is all,
19 according to my notes, from the indictment except for what we
20 have already read, and now we are already into Page 9.

21 THE COURT: I am noting your notes and you indicate
22 that you are in Count 1 now.

23 Your next reading will be the material in Count 2,
24 and so on. All right.

25 MR. SCHWARTZ: The problem is my notes may mean

1 13 GWmch

2 the count is included within that testimony rather than
3 being exclusively the count.

4 MR. PLATZMAN: What your Honor just saw I got late
5 last night. Amongst the million of other things I had
6 to do, it was impossible to do it. I got somebody to start
7 to delineate it for me.

8 I think he has done some portions or most of it.
9 As to all portions that concern themselves with the counts
10 there is no problem. I do have a problem when we go beyond
11 it, and a lot of that testimony in the grand jury minutes
12 that I have read is certainly not admissible.

13 I don't know whether that is the portions they are
14 seeking to have admitted. Maybe not. Then I wouldn't
15 care. There may be material there that could be very
16 harmful.

17 It may have been proper for questioning before
18 a grand jury, but not proper for questioning before this
19 jury.

20 MR. SCHWARTZ: Your Honor, of course this is the
21 reason we did try to raise it this morning, so we could
22 read straight through without any interruption.

23 My understanding of what Mr. Platzman says his
24 problem is, of course, if your Honor wants to give him time
25 to look at the portions we stated we want to read, that

1 14 GwMch

2 is up to your Honor. I would oppose asking us to just read
3 the counts in the indictment.

4 THE COURT: No, it is not necessary. I suggest
5 that we will handle this like we handle readings from
6 depositions and other material. Before you begin reading
7 a portion, you will indicate you are reading from Page 9,
8 Line 9, to Page 12, Line 15, so Mr. Platzman will be
9 apprised of that. Both of us will read ahead on the
10 matter.

11 I suggest if you come to something that requires
12 an objection, Mr. Platzman, you will say so, and if the
13 Court sua sponte sees something that it feels should
14 not be read, I will direct you to stop your reading at
15 that particular point. But with each section as you jump,
16 indicate what page and line you are then beginning at.

17 MR. SCHWARTZ: And the extent of that particular
18 passage.

19 THE COURT: Yes. If you have that down that would
20 be helpful, and then we don't read beyond it.

21 MR. SCHWARTZ: I can do that in each case.

22 THE COURT: You indicate that to Mr. Platzman on
23 the record. The Court will hear it as well.

24 I have the transcript in front of me and I will
25 follow it also. If a question asked is improper, it can

1 15 GwMch

2 be objected to at that point very promptly, and I will
3 instruct the jury in my charge, of course, the questions
4 are not evidence.

5 MR. PLATZMAN: Would there be at least some
6 degree, where I haven't had an opportunity, such as just
7 now, some degree of hesitation so I have an opportunity
8 to read in advance?

9 THE COURT: You will pause just slightly and we
10 will try to read -- both you, Mr. Platzman, and the Court
11 will try to read ahead.

12 MR. PLATZMAN: Will you also, where you go along,
13 where it does include the material that's contained in
14 the count, so state so that I know I don't have to --

15 MR. SCHWARTZ: That may be a little difficult
16 for me to do.

17 THE COURT: That I think is a little burdensome.
18 I want to be able to be apprised before a reading of
19 what is being read, and I will be reading ahead, as I know
20 Mr. Platzman will, and if Mr. Platzman makes an objection,
21 I will certainly consider it.

22 If I think something is singularly inappropriate,
23 I will just tell you to stop.

24 MR. SCHWARTZ: Very well, your Honor.

25 MR. PLATZMAN: Let me see what he's got.

1 16 Gwch

2 THE COURT: Why don't you do that.

3 (Pause)

4 MR. PLATZMAN: It is not exactly in a form that is
5 very usable to me as yet. However, I am still concerned
6 about questions and answers that I haven't had a chance
7 to examine thoroughly.

8 I just want to add one thing: If, to minimize
9 the amount of damage that could possibly take place,
10 counsel before he starts any group of questions would give
11 me the page number and then give me fifteen seconds or
12 something to wait.

13 MR. SCHWARTZ: I will give you a head start.

14 MR. PLATZMAN: So I can at least look at it.
15 Otherwise it becomes a contest.

16 THE COURT: That was my intention originally
17 when I said he should indicate the parameters; your
18 request for an additional few seconds so you could turn to
19 the page and start reading ahead is something I will
20 request to be done, Mr. Schwartz.

21 MR. SCHWARTZ: I will certainly do that, your
22 Honor.

23 THE COURT: We will proceed.

24 (Continued on next page)

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(In open court)

2 THE COURT: I believe you were reading the
3 question which begins on page 9, line 9.

4 MR. SCHWARTZ: That is correct, your Honor.

5 THE COURT: Why don't you begin by reading
6 that question and indicate to us the extent of this
7 portion of your reading.

8 MR. SCHWARTZ: I am going to begin with page 9,
9 line 9 and continue to page 10, line 7.

10 May I proceed, your Honor?

11 THE COURT: You may.

12 MR. SCHWARTZ:

13 "Q Let me turn to an area that is of principal
14 concern to us which has to do with the enforcement of the
15 gambling laws in your county among other counties, and
16 let me focus on what the ultimate question is insofar as
17 our interest in speaking with you, sir. We are concerned
18 to know whether any public officials in Orange County
19 ever received any money or any other kind of valuable
20 things in return for playing any part in attempting to
21 influence the local law enforcement in that county.

22 "Do you understand that?

23 "A I understand the question.

24 "Q And my question I want to ask doesn't really
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"Doul.n"

1 gwjw 2

2 go so much to hearsay although we would be interested in
3 any such hearsay and it's appropriate before a grand jury.
4 Let me put this question to you: Have you personally,
5 sir, ever in any way been involved in any conversation or
6 discussion with anyone on the subject of you personally
7 in any way receiving anything of value to help influence
8 law enforcement and particularly gambling law enforcement
9 in your county?

10 "A Never."

11 MR. SCHWARTZ: Proceeding to page 12, line 1.

12 I will read through page 12, line 7.

13 THE COURT: You may proceed.

14 MR. SCHWARTZ: Thank you.

15 "Q I guess what I had asked you was and you started
16 to answer, I asked you if there ever came a time when
17 anyone had approached you to ask to exert some influence
18 or had offered you any money to try to exert influence
19 in connection with the gambling laws.

20 "A Nobody offered me money. I know that years
21 ago, many people who were not in gambling at all now,
22 asked me to see the -- would I go see a judge or go see
23 the district attorney. But I never agreed to do it.
24 Never spoke to any judge or district attorneys in
25 anybody's behalf. Now being in the undertaking business --

"Doulin"

1 gwjw 3

2 "Q That means gambling or anything else.

3 "A Gambling or anything else as far as that goes.

4 Being in the undertaking business, people call me and

5 ask me to help them. Like for instance, I have many

6 calls on speeding tickets. Will I see a judge for that.

7 Something like that. I have calls people say "my brother

8 got arrested for drunk driving." I might tell them

9 that I will see what I can do for them. But I have

10 always set a rule. I don't see anybody, but I tell them

11 that I might. That I'll see what I can do for them.

12 Now, this answers two purposes. After all,

13 I'm in business. I may have buried in the family. I

14 don't want to lose the family and don't want to create

15 any hard feelings. At least I tell them I'll make an

16 effort to see what I can do. But I've never yet approached

17 a DA, an assistant or any judge for anyone.

18 "Q For any purpose?

19 "A For anything."

20 MR. SCHWARTZ: Proceeding to page 52, line 11.

21 I will read through page 53, line 4.

22 "Q Mr. Doulin, has anyone ever at any time offered

23 you any money or anything of value and you say that in its

24 broad sense, to try to influence your conduct in any

25 way whatsoever on anything, now that's a broad question

1 gwjw 4

"Doulin"

2 and I don't mean to be unfair by it.

3 "A I'll answer it. And I give you the privilege
4 of looking up all bank accounts that you want to on my
5 behalf that I have. The only thing that I ever had given
6 to me was quite publicly. Malcolm Wilson, the Lieutenant
7 Governor was a toastmaster at a testimonial dinner given
8 for me two years ago. 750 people attended. They had to
9 stop selling tickets three months before the affair was
10 held. They gave me a testimonial dinner and presented me
11 with a 1972 Cadillac. That was done publicly. That's
12 the only thing of value that I ever received and that was
13 done by my friends throughout both counties."

14 MR. SCHWARTZ: Proceeding to the same page, line
15 13 through line 14.

16 "A Now that's the only thing of value that I
17 ever received in my life."

18 MR. SCHWARTZ: Same page, line 19 through 25.

19 "Q Has anyone ever offered you anything of value
20 or money or anything else?

21 "A No.

22 "Q Regardless of whether it was given with the
23 exception of this testimonial you have told us about?

24 "A No."

25 MR. SCHWARTZ: That concludes reading from

1 gwjw 5

"Doulin"

2 Government's Exhibit 24, the testimony of June 25, 1973.

3 Now I will turn to Government's Exhibit 25,
4 the testimony of February 12, 1975.

5 Beginning on page 1, I will read through page
6 5, line 15.

7 MR. PLATZMAN: All right. Thank you.

8 MR. SCHWARTZ:

9 "Q Will you please state and spell your full
10 name.

11 "A William Edward Doulin, D-o-u-l-i-n.

12 "Q Mr. Doulin, before proceeding to ask you any
13 questions, I want you to understand the function of this
14 grand jury and the scope of its investigation.

15 "This is an additional grand jury which is
16 impaneled to primarily investigate into any allegations
17 of official corruption that we may have in the Southern
18 District of New York. Its function is to investigate
19 any possible violations of federal criminal statutes and
20 if they find any violations, to return an indictment.

21 "The term, 'official corruption', as we use it,
22 includes any illegal acts performed by public officials
23 or people in quasi-public positions. It includes any
24 violations of federal law, even those that may not go
25 directly to a violation of a public trust. In other

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"Doulin"

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words, it could include an income tax violation even though that may not go directly to the violation of a person's public trust or his public position.

"This grand jury is also looking into, as part of its investigation into official corruption, any attempts to influence the criminal justice system in the Southern District of New York and, by the way, the Southern District includes Orange County which is the county you're from and probably most familiar with. This influence on the criminal justice system includes not just gambling cases but any other types of cases where there may be tampering or influencing in the criminal justice system. By that I include any attempts to influence judges or prosecutors or law enforcement authorities or anyone involved in the due administration of justice and anyone who, of course, should not be influenced by anything but his or her own oath of office and duties and responsibilities to the public.

"All of these violations or misdeeds, if I can call them that, may include different violations of federal law. I've mentioned one, that's income tax evasion, but there are also other possibilities such as mail fraud, wire fraud, certain civil rights violations. I want you to understand that this grand jury is investigating all

1 gwjw 7

"Doulin"

2 of these possible violations, any violations by public
3 officials where they violate federal law.

4 "Do you undersatnd the scope, then, of this
5 grand jury's investigation?

6 "A I do, yes.

7 "Q Ar' you understand that it's a broad one?

8 "A Yes.

9 "Q Now, you appeared once before a grand jury and
10 that was on June 25, 1973. Is that correct? Does that
11 sound right to you?

12 "A Yes, around that time.

13 "Q Later on in the proceedings I'll give you a
14 copy of your grand jury testimony to look at but for now
15 will you accept the date as June 25, 1973?

16 "A Yes.

17 "Q At that time that you appeared, Mr. Doulin, you
18 were advised of certain rights and privileges that you as
19 an individual, as a citizen, have, and I want to advise
20 you again of those rights and privileges so that it's
21 clear you understand them and, of course, I want you to
22 ask any questions that you may have about them.

23 "First of all, you have an absolute right to
24 remain silent. Every citizen has that privilege. You
25 do not have to answer any questions that I put to you,

gwjw 8

"Doulin"

and if you should decide that you do not want to answer questions, this grand jury cannot infer anything from that refusal because you're merely exercising a right that you have to refuse to answer questions.

"If you want counsel you can be given and will be given an opportunity to consult counsel and to have counsel present outside this grand jury room so that if there are any questions you want to talk to a lawyer about, you can ask for an adjournment, step outside and talk to your lawyer or telephone a lawyer if he's not in the courthouse but is available to you.

"If you cannot afford counsel -- I don't think this applies to you at this time but it's something that I'm obliged to inform you of -- if you cannot afford counsel the Court can appoint counsel to represent you and you can have an opportunity to confer with the Court-appointed counsel before proceeding and that counsel can be available to you throughout the proceedings.

"I want you to understand that if you choose to testify, anything you do say in this courtroom, or in this grand jury room, can be used against you. There is a reporter here taking down all the testimony, everything I say and everything you say, and that can be used as evidence in a court of law.

1 gwjw 9

"Doulin"

2 "Also, you are under an obligation to testify
3 truthfully and accurately to the best of your ability.
4 When you came in the room you were sworn by the Foreman
5 of this grand jury, and when you take that oath you are
6 saying that you are going to testify truthfully to all
7 the grand jurors that are listening to your testimony
8 and to the jurors who must rely on your truthful testimony
9 in order to determine whether crimes have been committed.

10 "Do you understand that?

11 "A I understand. The only thing I'm vague about
12 is the day, June something, when I was down.

13 "Q But you do recall testifying?

14 "A I know I was down here but I don't remember the
15 date.

16 "Q I think we can take care of that another time.
17 Do you have any other questions about what I have said
18 to you?

19 "A No, none whatsoever.

20 "Q One additional point which was made to you in
21 June when you testified before a different grand jury,
22 and I want to repeat it again. This grand jury is
23 investigating a number of people in Orange County and you
24 are one of the people who are under investigation. You
25 are a subject of this investigation, and if the grand jury

1 gwjw 10

"Doulin"

2 finds that you have committed a crime, if the grand jury
3 finds probable cause, you may be indicted by this grand
4 jury. You understand all that?

5 "A I understand.

6 "Q Do you have any questions that you want to
7 ask me about any of these things I've said to you?

8 "A No.

9 "Q Fine. Understanding all this, are you
10 prepared to answer questions at this time?

11 "A Yes."

12 MR. SCHWARTZ: Proceeding to page 25, line
13 1 through page 30, line 11.

14 THE COURT: My page 30 doesn't have line
15 unfortunately.

16 MR. PLATZMAN: My doesn't have any lines either.

17 MR. SCHWARTZ: Nor does mine.

18 (Pause)

19 THE COURT: It goes through the third answer
20 on the page, Mr. Platzman.

21 MR. PLATZMAN: I should like to object to the
22 first portion of this. I believe your Honor has previously
23 ruled.

24 THE COURT: Yes, I have ruled relative to another
25 subject. You are absolutely right, but I believe that this

1 gwjw 11

2 is relevant on the matter of intent and, therefore, although
3 it is not any portion of the substance charged by this
4 jury, I believe that the questions and answers there are
5 relevant and material and, therefore, I overrule the
6 objection.

7 MR. PLATZMAN: May I have a clarification?

8 Was that page 30?

9 MR. SCHWARTZ: Page 30, line 11, which technically
10 your Honor, is not the third answer on the page because
11 on some questions the answer is on the same line as the
12 question.

13 THE COURT: I am having a little difficulty
14 in finding just where you are going to stop because of the
15 lack of pages.

16 MR. SCHWARTZ: The first five questions and
17 answers.

18 THE COURT: All right. I see where you are
19 reading from. Let me go back and examine this.

20 Mr. Platzman, you may do likewise.

21 (Pause)

22 THE COURT: It would appear that you intend
23 to stop this reading with a question and answer which
24 appears in Count 5; is that correct?

25 MR. SCHWARTZ: That is correct, your Honor.

1 gwjw 12

2 THE COURT: That is the way I now read it.

3 Will you direct your attention to anything
4 which is in this portion which is not contained in
5 former Count 4 and present Count 5 so Mr. Platzman can
6 concentrate on it as can the Court?

7 MR. SCHWARTZ: Your Honor, as I stated before,
8 that would be difficult to do without having the other
9 documents, a copy of the indictment. We didn't prepare
10 it that way ahead of time.

11 THE COURT: All right.

12 I have now had an opportunity to read these
13 approximate five pages. I am prepared to hear Mr. Platzman
14 when he finishes and then to rule.

15 MR. PLATZMAN: I am ready to listen to counsel's
16 examination. I do have some objection to certain portions
17 of it.

18 THE COURT: When you see a question to which
19 you object, would you rise just before counsel --

20 MR. PLATZMAN: May I do this so it gives me
21 an opportunity to read ahead while he is reading something
22 else. I do have objection starting with the questions,
23 and your Honor may be able to evaluate it in the interim,
24 at page 27.

25 THE COURT: Give me the question.

1 gwjw 13

2 Place it on the page, question 1, question 2.

3 MR. PLATZMAN: It is the seventh question down .

4 THE COURT: "If you look?"

5 MR. PLATZMAN: Yes, there all the way through
6 to the top of page 29, line 1.

7 THE COURT: You do not want it read by the
8 government and you will not read it either?

9 Mr. Platzman, did you hear me? If you are
10 going to read it, I would certainly permit them to read
11 it now.

12 MR. SCHWARTZ: Your Honor, may we approach
13 the bench?

14 THE COURT: Yes.

15 (At the side bar)

16 MR. SCHWARTZ: Your Honor, the reason I
17 requested the side bar is although our plans sounded and
18 looked good on paper at the previous side bar, I think
19 that perhs we would save time and have a more fluid
20 presentation to the jury if we did take a brief recess
21 and then dealt with the objections. I know the Court
22 wants to move along, and I appreciate that. I really
23 think it is becoming disjointed. I'm not saying there
24 is any intent to do it that way. Mr. Platzman is making
25 objections that he feels are proper.

1 gwjw 14

2 MR. PLATZMAN: I think I can do it in fifteen
3 minutes, ten minutes perhaps. I will do it as fast as I
4 can and notify your Honor.

5 THE COURT: All right. We will take a ten
6 minute recess at this time.

7 (In open court)

8 THE COURT: Ladies and gentlemen, I have
9 conferred with counsel at the side bar in an attempt to
10 move this portion of the trial along. It has been suggested
11 we take a ten minute recess. We will do that at this
12 time.

13 Please do not discuss the case among yourselves,
14 keep an open mind on all facets of the case until we
15 resume. We will take a ten minute recess.

16 (Recess)

17 (Jury absent)

18 THE COURT: Yes, Mr. Platzman.

19 MR. PLATZMAN: I was thinking, Judge, as I
20 am going along marking out just the portions that I'm
21 going to object to. Perhaps your Honor may rule on those
22 and they can be very smooth and continuous and read them
23 just as it is.

24 THE COURT: You finish and then give me the
portions to which you have objection. I will rule now.

1 gw jw 15

2 MR. PLATZMAN: I'm marking them up. I'm
3 almost finished.

4 THE COURT: I will wait.

5 MR. PLATZMAN: Thank you, Judge.

6 (Pause)

take

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MR. PLATZMAN: I am ready, if it please the Court.

THE COURT: You may proceed.

MR. PLATZMAN: May I just state the portions I object to and forget about the rest?

THE COURT: Yes.

MR. PLATZMAN: I think -- where were we up to?

MR. SCHWARTZ: Page 25, Line 1.

THE COURT: You had indicated that you had an objection to some material in that section.

MR. PLATZMAN: I have no objection to 25, Line 1, to 30, Line 1, I think.

MR. SCHWARTZ: He goes to Line 11.

You have no objection?

MR. PLATZMAN: No objection.

On Page 31 -- I don't know the line number there.

THE COURT: The eleventh question, "Do you know Judge Isseks?"

MR. PLATZMAN: Is that what you are including?

THE COURT: He is including to the bottom of that page.

MR. PLATZMAN: I object to that through to the top of 32, Line 1.

THE COURT: What is your ground?

1 2 Gwmch

2 MR. PLATZMAN: I think his knowledge as to whether
3 he knew Judge Issels or not is not relevant.

4 Counsel, does this include, and it is rather
5 confusing with the lack of page numbers and line
6 numbers, do you intend to read the portion concerning
7 Judge Mazzio?

8 THE COURT: No, he does not intend to read that.
9 He intends to read the fourth question and the answer, and
10 then he goes down to the matter which you have just
11 referred to.

12 MR. PLATZMAN: That portion I object to as not
13 being relevant.

14 THE COURT: Mr. Schwartz?

15 MR. SCHWARTZ: Your Honor, Mr. Doulin's
16 relationship with the other people who were involved in this
17 case and about whom there has been testimony is certainly
18 something the jury should have, and they should be able
19 to consider. It's an admission of the defendant, as is all
20 the testimony before the grand jury.

21 THE COURT: Overruled.

22 Next objection?

23 MR. PLATZMAN: The next one is at Page 34, line
24 whatever it is, beginning with the question, "Do you know
25 a man by the name of Abraham Weissman?", down to the bottom

1 3 GwMch
2 of the page.

3 THE COURT: It is the same objection, I imagine,
4 you made to the portion relating to Judge Isseks; is that
5 correct?

6 MR. PLATZMAN: Yes.

7 THE COURT: You make the same comment?

8 MR. SCHWARTZ: Yes.

9 THE COURT: Same ruling.

10 MR. PLATZMAN: Page 35, the second question --
11 the first question and answer on Page 35, that's okay.

12 THE COURT: I don't think he is asking anything
13 along the line of the first four questions.

14 MR. SCHWARTZ: That is correct, your Honor.

15 THE COURT: So we begin with the fifth question,
16 he skips the sixth question and seventh question, and then
17 does the rest of the page.

18 MR. PLATZMAN: It is starting with the eighth
19 question that I object to.

20 THE COURT: Relative to Mr. Weissman going to
21 his office?

22 MR. PLATZMAN: Right, and down to Page 36, the
23 end of the first question on that page, Line 8, I guess it
24 is.

25 THE COURT: And the basis of your objection?

1 4 Gwch

2 MR. PLATZMAN: Same reason, your Honor.

3 MR. SCHWARTZ: Same response, your Honor.

4 THE COURT: Same ruling.

5 Now we go to Page 40.

6 MR. PLATZMAN: I have no objection to 40, 41 and

7 46.

8 THE COURT: Now we go to 46. He begins with the
9 third question, "Do you know a man named Richard Monell?",
10 and you have no objection to the balance of that page?

11 MR. PLATZMAN: No objection.

12 THE COURT: He continues to Page 47, the answer
13 which began at the bottom of Page 46.

14 Do you have any objection?

15 MR. PLATZMAN: It is okay until we get to Page 49.

16 THE COURT: 49. They will not be reading anything
17 after the first four lines.

18 MR. SCHWARTZ: That is correct.

19 MR. PLATZMAN: That is all right. The part I wanted
20 to object to is out.

21 The rest of it there is no objection. We can read
22 it now without objections and without interruptions.

23 THE COURT: I think it was a good suggestion by
24 both counsel and I appreciate it.

25 Miss Kruger, bring in the jury.

1 5 GWmch

2 MR. SCHWARTZ: I will continue to refer to page
3 numbers so we all keep track.

4 THE COURT: I think you should, and that will
5 help also in anyone's review of the record.

6 MR. PLATZMAN: May it please the Court, I have
7 a character witness, a member of the bench, supposed to
8 be here at 2:00 o'clock. He could be here at 2:00 o'clock,
9 but if we are going to be delayed, then he would have to
10 get back to his own court. He is right across the street.

11 THE COURT: I would suggest you have him
12 available at 10:00 o'clock tomorrow morning. I think that
13 would be more convenient for him. We are running behind,
14 through no fault of anyone's.

15 MR. PLATZMAN: All right.

16 THE COURT: Rather than inconvenience him, I
17 suggest if he would be available at 10:00 o'clock tomorrow
18 morning, we would put him on rather promptly and he could
19 testify.

20 (Jury present)

21 THE COURT: Ladies and gentlemen, we are going
22 to resume.

23 During the recess, counsel and the Court went
24 over the balance of the transcript of Mr. Doulin's grand
25 jury testimony and we have taken care of a number of matters

1 which will permit the reading to continue from this point
2 to its conclusion.

3 You may proceed, Mr. Schwartz.

4 MR. SCHWARTZ: Thank you, your Honor.

5 Beginning Page 25, Line 1, the testimony of
6 February 12, 1975, Government's Exhibit 25 for identification.

7 "Q Mr. Doulin, we have marked Grand Jury Exhibit 1,
8 today's date.

9 "A Yes.

10 "Q This is a photocopy of your Grand Jury testimony
11 dated June 25, 1973. I would like you to take a few
12 moments and read through that.

13 "(Witness reading.)

14 "Q Mr. Doulin, if you would like --

15 "A No. I have read through enough.

16 "Q We can continue to let you read this outside the
17 Grand Jury room and give the Grand Jurors a brief recess.
18 I do want you to read through the testimony. Would
19 you like to take a brief recess and you can continue reading
20 outside?

21 "A All right.

22 "(Witness leaves room with Grand Jury Exhibit 1.)

23 "(Recess)

24 "(Witness William E. Doulin returns to room.)
25

1 GWmch

2 "Q Mr. Doulin, will you, please, be seated again.

3 "A Yes.

4 "Q Mr. Doulin, I want to remind you that you are
5 still under oath?

6 "A Yes.

7 "Q We have taken a break now for approximately a
8 half hour -- actually it was a little more than a half hour
9 and during that time you read this Grand Jury Exhibit One;
10 is that correct, you read through each page?

11 "A Yes, I scanned it.

12 "Q You took over a half an hour, you read it pretty
13 carefully, haven't you?

14 "A I read it, yes.

15 "Q I put it before you again. Do you have any
16 questions about that testimony, and by that I mean is there
17 anything in that testimony that you would want to change?

18 "A No.

19 "Q Are you satisfied that the testimony as recorded
20 in this exhibit is your accurate testimony?

21 "A Yes.

22 "Q Are you satisfied that the testimony you gave and
23 as recorded in Grand Jury Exhibit One is truthful testimony?

24 "A Yes.

25 "Q And that it is testimony upon which this Grand

1
2 Jury can rely?

3 "A Yes.

4 "Q I ask are there any changes, additions or amend-
5 ments that you want to make?

6 "A No.

7 "Q In Grand Jury Exhibit One, your prior testimony,
8 you were asked some questions about whether people ever
9 came to you to ask you to approach law enforcement
10 officials, or D.A.'s or judges, in connection with pending
11 criminal cases; do you recall that?

12 "A Yes.

13 "Q You said in that testimony that on occasions
14 people would approach you but that you never followed
15 through and that you never approached anyone in law enforce-
16 ment on behalf of a defendant --

17 "A That is right.

18 "Q -- is that correct?

19 "A Yes.

20 "Q And you stand by that testimony?

21 "A Yes.

22 "Q If you like you can turn to page twelve of the
23 testimony, which is the page that I am referring to.

24 "A This one, right. It's not marked.

25 "Q I think in the upper right-hand corner you will

find a page number.

"A Oh, yeah. You say page twelve?

"Q Twelve, if you have it.

"A Yes.

"Q If you look at about line seven, there is the testimony I refer to, where you say quote, 'I know that years ago, many people who are not in gambling at all now, asked me to go see the -- would I go see a judge or go see the District Attorney,' end quote. Who are those people who saw you years ago.

"A Well, to tell you the truth, I couldn't tell you who they were, this happened years ago and you see being in the undertaking business people call you --

"Q Let me interrupt you for a moment. What do you mean by years ago, how long ago are you talking about?

"A Well, I would say about five or six years ago. As I recall it, they call you, they get tickets, traffic tickets and drunk drivers. Now, they never come to you. They call you on the phone. Many times I said yes, I will see the judge and the reason why I said this -- I never did see the judge but -- I didn't want to have any hard feelings and I wanted to protect our business but I have never seen a judge to try to get them off or anything else.

"Q You have been talking about five or six years ago,

1 Gwmch

2 you said.

3 "A Never, even now of late years I have had people
4 call me to ask me what I can do about the ticket.

5 "Q Would you give us the names of some of the people
6 who called you?

7 "A I couldn't give it to you now. I don't keep
8 a record. I can tell you last night my granddaughter, who
9 is eighteen years old, came in with a ticket for a broken
10 headlight.

11 "Q Is that the only one you can remember over the
12 last few years?

13 "A Yes, because this happened last night. she had
14 the headlight fixed and I guess that's required by law.

15 "Q Didn't you say earlier in your testimony you
16 knew most of the people in Newburgh and most of the people
17 in Newburgh know you?

18 "A That is right.

19 "Q But you can't remember anyone who came to you and
20 asked you for a favor, like a --

21 "A Well, the traffic tickets I don't pay attention
22 to too much and I don't remember anybody asking me to see
23 about something serious. Now, I dismiss it when they call
24 me. I'll say, what can I do for you.

25 "Q You are talking about traffic tickets?

"Doulin

1 GWmch

2 "A Yes, traffic tickets it would be.

3 "Q Has anyone ever come to you asking you to do
4 a favor for them in any other kind of criminal case?

5 "A No.

6 "Q Never?

7 "A Not that I know of.

8 "Q When you say, 'Not that I know of,' you mean never?

9 "A Never, yes; never.

10 "Q Has anyone, at any time, come to you and offered
11 you money if you would see someone in law enforcement,
12 from a judge all the way through to a policeman --

13 "A No.

14 "Q Let me finish the question. -- offer you money
15 to see someone in law enforcement to try to influence a
16 case or investigation, have you ever been offered money to
17 do that?

18 "A No.

19 "Q Never in your entire career?

20 "A No.

21 "Q Have you ever solicited from anyone money in
22 order for you to see someone in law enforcement to influence
23 a case or investigation?

24 "A No.

25 "Q Have you ever had any discussions with anyone

1 GWmch "Doulin
2 concerning people offering you money or anything of value
3 for you to go see someone in law enforcement to influence
4 a case or an investigation?

5 "A No.

6 "Q You understand when I say money in my prior
7 questions I include anything of value --

8 "A Yes.

9 "Q -- offered to you?

10 "A I understand.

11 "Q Has anyone offered you or have you ever solicited
12 anything of value to be paid indirectly, for example, to
13 the Republican Party, rather than directly to you --

14 "A No.

15 "Q -- in exchange for you seeing someone in law
16 enforcement and attempting to influence a case or an
17 investigation?

18 "A Never.

19 "Q Nothing like that has ever happened?

20 "A No.

21 "Q No one has ever asked you to do that?

22 "A No.

23 "Q You have never solicited anyone along those lines?

24 "A No."

25 Same page, Line 17.

"Doulin

GWmch

"Q Have you directly and personally or indirectly, through someone else, interceded in any case in the criminal justice system in an attempt to influence the outcome of the case or investigation or the trial or whatever the pending --

"A Never.

"Q You are absolutely certain about that?

"A Yes.

"Q Did you ever try to use your influence in any way to affect the outcome of a criminal justice investigation or proceeding?

"A Never. "

Page 31, Line 5:

"Q Do you ever, in any way, make known to judges, who are sitting on pending criminal cases, what your personal feelings are concerning the case?

"A No."

Same page, Line 19:

"Q Do you know Judge Isseks?

"A Yes.

"Q How long have you known him?

"A I have known Jim for the last thirty years, twenty-five or thirty years.

"Q Did you participate in any way in Judge Isseks

1 Gwmch

"Doulin

2 gaining his current position?

3 "A I supported him in the committee nomination, yes.

4 "Q And when was that?

5 "A Must be about eight years ago that he has been
6 judge.

7 "Q Approximately eight years ago?

8 "A About that."

9 Page 34, Line 16:

10 "Q Do you know a man by the name of Abraham
11 Weissman?

12 "A Yes.

13 "Q How long have you known him?

14 "A He is at the other end of the county. I have
15 known him since he has been a D.A., for nine years.

16 "Q That's as he was Assistant D.A.?

17 "A Assistant D. A. and now D.A.

18 "Q About how long has he been District Attorney, is
19 it a year or two?

20 "A Well, he was an Assistant D.A. and then he was
21 elected -- I think it was last year or two years ago.

22 "Q Did you support Mr. Weissman?

23 "A Yes."

24 Page 35, Line 8:

25 "Q Do you have an office in your home?

1
2 "A No, I have an office in the funeral home,
3 downstairs. Yes, but I also have an office -- Republican
4 headquarters is in Goshen."

5 Line 15:

6 "Q Has Mr. Weissman been to your office in Goshen
7 in the past four years?

8 "A Yes.

9 "Q How often?

10 "A Well, he was in last Friday to tell me that he
11 expects to be a candidate again, he runs this year. He
12 just wanted me to know he was going to be a candidate;
13 that's last Friday.

14 "Q How often does he come in?

15 "A Well, we have what we call a round-table and this
16 was a round-table at a hotel in Goshen, where every Friday
17 we have a Dutch treat and anybody can come and Abe Weissman
18 comes quite often. So, I would say he has been to my office
19 many times.

20 "Q What about Judge Isseks, how much have you seen
21 him?

22 "A Judge Isseks comes to the round-table but very
23 rarely. The Judges don't come too much because they have to
24 be in court and can't make it.

25 "Q Have you seen Judge Isseks in other places other

than this round-table?

"A I went to his daughter's wedding and I don't see him too often, no. I may have met him on the streets in Goshen but no place for -- never had like dinner with him. He doesn't come to the round-table too often."

Page 40, Line 20:

"Q At the funeral home, are you usually paid in cash or check?

"A Sometimes cash, sometimes check.

"Q Was it more one way?

"A Mostly checks.

"Q What do you do with checks, usually?

"A I deposit them in the checking account."

Page 41:

"Q What about the cash, what do you do with the cash?

"A Well, I have kept back cash lots of time. I have never taken a wage out of the funeral home. I have never written a check for wages, but then when people pay me with cash I declare it and pay income taxes on it.

"Q And draw on it?

"A Yes, I take that cash myself and draw on it.

"Q Is that the usual way you handle the cash?

"A I have been doing that for forty-five years.

1 GWmch "Doulin 888
2 "Q You keep a cash receipt book, that was how you
3 keep count of cash?

4 "A No, I just keep one record for funerals,
5 who paid and who didn't pay."

6 Same page, Line 19:

7 "Q Let me ask you, because I am not sure I under-
8 stand what you are saying about this book. At the end of
9 the year you declared, you said, on your income tax whatever
10 cash you received?

11 "A Yes.

12 "Q Although you had not deposited it as you received
13 it?

14 "A That is right.

15 "Q How did you know at the end of the year how much
16 cash you received?

17 "A Well it wasn't exactly down to the penny, but I
18 figured I declared twelve thousand dollars and paid income
19 tax on twelve thousand dollars.

20 "Q That is your estimate of how much cash you received
21 during the year?

22 "A Yes."

23 Page 46, Line 9:

24 "Q Do you know a man named Richard Monell?

25 "A Richard Monell -- I wouldn't know him. I know his

1
2 father.

3 "Q John Monell?

4 "A John Monell, yes.

5 "Q How do you know his father?

6 "A Well, I buried the mother and I buried his father
7 and I buried in the family for many yeras.

8 "Q How long have you known John Monell?

9 "A I have known John Monell for -- well, I know
10 his father and mother before they were married, so I know
11 John since he was a baby.

12 "Q About how old is he now?

13 "A I'd say he must be a man around 48 or something.

14 "Q Have you seen him socially on any occasions?

15 "A No.

16 "Q When was the last time you saw John Monell?

17 "A I last saw John Monell, I would say, maybe two
18 years ago. He came to me about his grandchildren, wanted
19 to know what procedure he would have to take to obtain
20 custody of them. I said, 'You better go get a lawyer.
21 Not being a lawyer, I wouldn't know.' But this is what he
22 asked me and he came to me again when the Teamsters Local
23 Union as'n't giving him his pension and he asked me could I
24 see a man by the name of Ted Daley who was secretary of the
25 Union and see if he could get his pension. Eventually, he

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must have gotten his pension because I never saw any more of him and I never went to Mr. Daley about it."

Same page, Line 21:

"Q Do you know Mr. John Monell's wife, Delavine, D-e-l-a-v-i-n-e?

"A Delavine, yes.

"Q How long have you known her?

"A Well, I've only known her since she married John. I didn't know her before.

"Q About how long is that?

"A I'd say about fifteen or twenty years.

"Q Did John Monell or his wife ever ask you to recommend a lawyer to them?

"A No.

"Q Other than this one situation concerning custody, did you ever advise them to get a lawyer for any particular matter?

"A No.

"Q Do you know their son Richard Monell?

"A I don't know him.

"Q Have you ever heard his name before?

"A Yes, I heard it.

"Q In what connection have you heard his name?

"A Well, going back to the first question you asked

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"Doulin

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me, he got in some kind of trouble and when they came to my office about the union bit, they talked about Richard being in trouble.

"Q When was this?

"A Gee, I don't remember; maybe three years ago. Same time he was in about the union business.

"Q That's John Monell?

"A John, yes.

"Q Did he come in with his wife?

"A I'm pretty sure he did.

"Q Did he come in with Richard?

"A No.

"Q Did he come in with Mrs. Grant?

"A Mrs. Grant was there.

"Q What did they tell you about Richard Monell?

"A Well, they didn't tell me anything about him, only that he was -- I forget -- about his wife wanted to take the children, or something. That's all they talked about was the adoption of grandchildren. That's all they talked about."

Proceeding to Page 50, Line 1:

"Q You knew Mrs. Grant, is that correct?

"A Yes.

"Q How long have you known Mrs. Grant?

2 "A Oh, I'd say forty years. I buried her family,
3 her father.

4 "Q Mrs. Grant is Richard Monell's grandmother, is
5 that correct?

6 "A That's correct.

7 "Q Am I correct also that the Monells and Mrs. Grant
8 and her husband all live on the same lot or acreage of
9 land in trailers?

10 "A They live up in the country someplace, but
11 I couldn't tell you where they live or if they're on the
12 same land or not.

13 "Q You've never been to --

14 "A Never been there.

15 "Q -- their home?

16 "A Never been to their home.

17 "Q Have any of them ever been to your home, other than
18 to attend a funeral?

19 "A Yes, they've been to my home. They've been to my
20 home and asked me about the union and adoption of the
21 grandchildren.

22 "Q Any other occasions?

23 "A That's all.

24 "Q Did Mrs. Grant at any time ever have a discussion
25 with you in which you agreed to intercede on behalf of her

"Doulin"

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2 son, Richard Monell, in connection with a criminal case
3 that was pending against him?

4 "A No.

5 "Q Never had such a discussion?

6 "A No.

7 "Q Did you ever have a discussion with anyone in
8 which you discussed interceding in Richard Monell's criminal
9 case in order to assist Richard Monell and to use your
10 influence to help him?

11 "A No."

12 (Continued on next page)

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"Doulin"

MR. SCHWARTZ: Page 51:

"Q Did you ever have conversations with anyone, whether it be Mrs. Grant or another member of the family or anyone else, in which they asked you to intercede in Richard Monell's criminal case and to use your influence to assist Richard Monell?

"A No.

"Q Did you ever offer or volunteer to intercede on Mr. Monell's behalf in his criminal case?

"A No."

MR. SCHWARTZ: Bottom of the page:

"Q Did anyone ask you, after your appearance, what testimony you'd given?

"A No.

"Q Did you tell anyone what questions you'd been asked or what testimony you'd given?

"A No.

"Q After you June appearance did you discuss, in any way, with anyone, the substance of your grand jury testimony?

"A No.

"Q Did you tell anybody you'd appeared?

"A No."

MR. SCHWARTZ: Page 54, line 12:

1 gwjw 2

"Doulin"

2 "Q Is there anything in the testimony you've
3 given today, Mr. Doulin, or in your prior testimony which
4 you had an opportunity to read, that you would want to
5 change as you sit there now?

6 "A No.

7 "Q Are you satisfied that you've given this grand
8 jury complete and truthful and honest answers?

9 "A I am."

10 MR. SCHWARTZ: That completes the reading
11 from Exhibit 25, your Honor.

12 THE COURT: That completes the government's
13 reading of the grand jury testimony of Mr. Doulin?

14 MR. SCHWARTZ: That is correct, your Honor.

15 THE COURT: Mr. Platzman, is there any
16 testimony that you would like to read at this time or do
17 you wish to defer on that?

18 MR. PLATZMAN: I will defer on that, your
19 Honor, as we had discussed.

20 THE COURT: Very well.

21 MR. JOSSEN: Excuse me for a moment, your
22 Honor.

23 THE COURT: Yes.

24 (Pause)

25 MR. JOSSEN: Your Honor, at this time the

gwjw 3

government offers again into evidence Government's Exhibits 10, 10-A and 11 for identification.

MR. PLATZMAN: Same objection.

THE COURT: Counsel step to the side bar. I will inquire, since this is a little matter, if there is anything you wish to add to the discussion which we had previously.

(At the side bar)

THE COURT: As I recall these exhibits, they are the ones which relate to Mr. Weissman.

MR. JOSSEN: That's correct, your Honor.

THE COURT: First let me focus on counsel's objection.

Would you restate it, Mr. Platzman. Then I will hear the government.

MR. PLATZMAN: Number one, there has been an improper foundation laid with no identification that these documents are in any way really related to the Abraham Weissman that we are talking about.

Number two, I further object that such testimony, assuming there was a proper foundation, such evidence would be incompetent and irrelevant and not binding upon this defendant.

THE COURT: Mr. Jossen.

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2 MR. JOSSEN: Your Honor, these records are
3 business records which the witness has testified are kept
4 in the ordinary course of business and that it is the
5 ordinary course of business to keep such records.

6 The argument Mr. Platzman makes with respect
7 to whether they are the records for the same Abraham
8 Weissman whose name has been mentioned in this case is
9 really an argument to be made to the jury as to the
10 weight of that evidence, but not as to its admissibility.

11 In fact, I understand that on Government's
12 Exhibit 11, which is the application identified by the
13 same witness, it states that the applicant is a lawyer in
14 Orange County.

15 I submit, your Honor, that Mr. Platzman's
16 argument about authenticity is really an argument on weight
17 of the evidence to be made to the jury.

18 With respect to the relevance of the exhibits,
19 I submit that those exhibits do give the government certain
20 arguments which we intend to make in summation as appears
21 from the dates and places and they are relevant for that
22 purpose.

23 THE COURT: I do not have the difficulty with
24 the relevance that I have at the moment with the foundation
25 objection. Yes, they are records made in the regular course

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2 of business, perhaps. But I recall that you produced
3 a witness and yet there was no attempt made to authenticate
4 the signature on the documents.

5 The subject was gone into, if my recollection
6 is correct, by Mr. Platzman on voir dire and my recollection
7 to the extent it was gone into, that witness was not
8 familiar with the signature of Mr. Platzman.

9 So at the moment --

10 MR. PLATZMAN: Mr. Weissman.

11 THE COURT: Pardon me, Mr. Weissman.

12 So at the moment we have no authentication
13 of these exhibits which would tie them into Mr. Weissman.
14 I am having difficulty in concluding that because they
15 are business records, you still do not have to lay an
16 appropriate foundation to connect them up with Mr.
17 Weissman. I will hear further from you on that.

18 MR. JOSSEN: Your Honor, the government submits
19 that all that was required to be laid is a foundation
20 here for the admission of these records into evidence was
21 that they are, in fact, business records kept by the
22 particular company or concern for which a witness had been
23 produced and that they are kept in the ordinary course of
24 business.

25 The fact that there is an application for that

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account with the signature on it is something that the jury can consider in comparing it, if it wants to, to signatures which appear in the various records of transactions which are in evidence, which have been offered into evidence.

THE COURT: The fact that business records are admissible under an exception to the hearsay rule still does not, as I understand it, do away with the requirement of authentication.

Let's look to the first where they are self-authenticating. I suppose the rule there would be Rule 902.

Is it your contention that they are self-authenticating under Subdivision 9 as commercial paper and related documents or do you have some other theory relative to the authentication of the documents?

MR. JOSSEN: Excuse me a moment, your Honor.

THE COURT: Yes.

(Pause)

MR. JOSSEN: Your Honor, I have examined the rule and the government does not contend that the documents are self-authenticating.

In view of your Honor's indication as to your ruling on this, we feel it is necessary to call a witness

1 gwjw 7

2 before the jury to authenticate the documents in a manner
3 which we will attempt to do.

4 I would like to inform the Court that when I
5 do call the witne-s and I will try and see if I can get
6 her today -- the witness is the grand jury reporter --
7 I would intend to examine her principally with leading
8 questions. The reason for this, your Honor, is that the
9 originals of these records which are offered in evidence
10 were records which Mr. Weissman turned over to her and
11 which were marked by her as exhibits during the course of
12 his grand jury testimony.

13 In view of the fact that your Honor has yet
14 to rule on the admissibility of Mr. Weissman's grand
15 jury testimony, we think it would be appropriate to examine
16 her with leading questions without reference to that
17 testimony itself.

18 THE COURT: I assume that nothing you have
19 heard up to this moment causes you, Mr. Platzman, not to
20 press your authentication or authenticity objection,
21 because if you are satisfied that the documents are
22 authentic, I would be left with a ruling on relevance
23 only.

24 I would tell you in advance of your saying
25 anything that it would be my intention to hold the

1 gwjw 8

2 documents to be relevant and would overrule your objection
3 on that.

4 I do want to know if you wish to maintain
5 your objection on authenticity in view of the government's
6 indication that they will come forward with a witness on
7 that subject, whether it be a grand jury reporter or
8 someone else.

9 I frankly do not doubt that the documents in
10 question were signed by Mr. Weissman, but I do not think
11 the government at this stage has technically proved the
12 fact.

13 MR. PLATZMAN: May I comment?

14 Your Honor will note and I think counsel will
15 note that through this entire trial I have never challenged
16 any document with respect to authenticity. I don't like
17 to put anybody to the proof of something which would be
18 unnecessary. That isn't the way I practice law.

19 However, in this case there is a complicating
20 factor, and that is that Mr. Weissman is dead and this
21 man doesn't have an opportunity through myself to cross
22 examine these accounts, whatever they may be, and, hence,
23 they might be damaging. I don't know whether they are
24 or not. Of course I would, if your Honor found that there
25 was a foundation, I would probably also add to it the

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2 objection that the record themselves might also be
3 violative of the confrontation clause in that I wouldn't
4 have an opportunity to challenge them. I recognize that
5 might be a little bit more difficult.

6 My principal reason is because of the merits
7 of this thing, and I don't want the Court or counsel to
8 understand that it is strickly a question of my being
9 technical.

10 THE COURT: The Court has not taken it as
11 such.

12 I suggest that I agree with the objection that
13 you have made heretofore relative to authentication. I
14 will add here to my prior ruling.

15 The objection to the admission of the documents
16 based on the present state of the record is sustained.

17 MR. JOSSEN: Your Honor, we will call a
18 witness. Her name is Emily Cortes. I don't know if I can
19 reach her now. I don't know if your Honor wants that to
20 be done. I would like to indicate that we will be calling
21 her only for the limited purpose of identifying the source
22 of those documents as Mr. Weissman.

23 THE COURT: Very well.

24 Is there anything further at this time?

25 MR. JOSSEN: I believe not, your Honor.

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2 THE COURT: I suggest that we recess court,
3 and I know everyone has a good deal that they want to do
4 during the lunch hour. It is going on 12:30.

5 It is my suggestion that I recess court and
6 direct the jury to return at 2:30. Is that satisfactory?

7 MR. PLATZMAN: Yes, your Honor.

8 One additional question. Your Honor is going
9 to take some testimony and there will be some determination
10 of the question of the materiality of the questions
11 that were posed to this defendant in the grand jury.
12 I think I have discussed with Mr. Schwartz and Mr. Jossen
13 earlier this morning my intentions concerning the bringing
14 in of -- I don't recall whether I mentioned it to your
15 Honor -- the bringing in of testimony and evidence that
16 may be held by the Federal Bureau of Investigation, the
17 documents, reports of investigations and so on. They are
18 under subpoena. The subpoena has been served. Counsel
19 said that was unnecessary.

20 I am assuming we can, after your Honor has
21 ruled on what I would like to put in evidence, maybe
22 determine what records are available, and I also would
23 like information from the United States Attorney's office.
24 Mr. Schwartz advises me that it is the policy of the
25 office not to permit any of the United States Attorneys

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2 to testify. I don't recall whether he said he would have
3 to discuss it with his superior, the chief attorney.

4 My aim would be to obtain as much information
5 as I can concerning what transpired prior to these grand
6 jury investigations.

7 THE COURT: In view of the comments of counsel,
8 without my indicating that I agree or disagree with any-
9 thing that has been said, I wonder if it might be advisable
10 to plan on utilizing the afternoon for all matters which
11 would be conducted outside of the presence of the jury.
12 There is the matter of the Weissman confession as well.

13 Perhaps rather than have the jury spend most
14 of the afternoon waiting around, that I excuse the jury
15 now and direct them to return at 10:00 a.m. tomorrow
16 morning.

17 MR. PLATZMAN: That is satisfactory.

18 MR. SCHWARTZ: That is satisfactory, your
19 Honor.

20 I want to state one thing for the record on
21 this last matter concerning materiality. I have not seen
22 the subpoena as yet. I did tell Mr. Platzman earlier
23 when I heard the FBI had been served, he could have done
24 it through me. I haven't seen it. I don't know what it
25 calls for. I'm not sure whether it is a proper subpoena.

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2 I just want to make that statement now.

3 MR. PLATZMAN: I would like to apologize for
4 anything that I might have done that doesn't conform to
5 the usual practice of the United States Attorney's office
6 in New York. This is not an area that I have great
7 familiarity with.

8 My intentions were as I expressed to you this
9 morning and Mr. Jossen, what I intend to do and what I would
10 like to produce as evidence.

11 MR. SCHWARTZ: I didn't intend to imply that
12 you did anything that made me unhappy.

13 THE COURT: Very well. What we will do is
14 this: I will explain to the jury that there are a
15 number of matters which we must take up outside of their
16 presence. For that reason, I have conferred with counsel
17 and I am going to excuse the jury and direct them to
18 return at 10:00 a.m. tomorrow morning. I will request
19 counsel to return at 2:30.

20 Is that agreeable?

21 MR. PLATZMAN: Yes.

22 MR. SCHWARTZ: Yes, your Honor.

23 (In open court)

24 THE COURT: Ladies and gentlemen, it is now
25 12:30 p.m. I have news for you. I have conferred with

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2 counsel. We have a number of matters which must be taken
3 up outside of the presence of the jury and we have all
4 agreed that rather than have you wait around a good bit
5 of the afternoon, we can work here ourselves and take care
6 of all these matters. If the jury does not object, I am
7 going to excuse the jury now and direct you to return at
8 10:00 a.m. tomorrow morning.

9 Is there any objection?

10 (No response)

11 THE COURT: Very well.

12 The jury is excused with the following
13 admonitions:

14 Number one, please do not discuss the case
15 among yourselves. Do not remain within the presence of
16 anyone else discussing the case. Should you learn any-
17 thing about the case from any source whatsoever outside of
18 this courtroom, you are directed to report the matter to
19 me at once when we reconvene.

20 Finally, please keep an open mind on all facets
21 of the case until the case has been concluded and given
22 to you following my charge.

23 The jury is excused. You are directed to
24 return to resume hearing this case tomorrow morning at
25 10:00 a.m.

Counsel will return this afternoon.
(Luncheon recess)

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Beer-direct

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AFTERNOON SESSION

2:30 p.m.

(In open court; jury not present)

THE COURT: Good afternoon.

MR. JOSSEN: Your Honor, on the issue of materiality, the Government is prepared to present two witnesses at this time. Let us state at the outset it is our understanding that with respect to the issue of materiality the Court must find that testimony was material beyond a reasonable doubt as it is one of the essential elements of the crime.

The Government calls Mr. Beer.

B R U N O J. J. B E E R, called as a witness by the Government, being first duly sworn, testified outside the presence of the jury, as follows:

DIRECT EXAMINATION

BY MR. JOSSEN:

Q Mr. Beer, I will ask you to keep your voice up so everyone in the courtroom can hear you.

How are you employed, sir?

A I am a postal employee.

Q Where do you work?

A FDR Station, 909 Third Avenue, New York.

2 Q Would you please keep your voice up, so we can
3 all hear you.

4 Mr. Beer, did there come a time when you served
5 on a federal grand jury?

6 A Yes.

7 Q When was that?

8 A April '73 to August '74.

9 Q Will you tell us how you became a grand juror?

10 A My name was picked from a drum.

11 THE COURT: Keep your voice up, please, sir.
12 I like to hear.

13 Q Did you have a particular office on that grand
14 jury?

15 A I became deputy foreman.

16 Q Did the grand jury on which you served have a
17 name or title or any description?

18 A They were the Strike Force of August 22, 1972.

19 Q Mr. Beer, how often, how frequently, did the
20 grand jury meet while you were sitting on it?

21 A Twice a week.

22 Q Was the grand jury -- was that same grand jury
23 sitting before you became a member of it?

24 A Yes.

25 Q How many jurors were on the grand jury?

2 A Twenty-three.

3 Q How many jurors were required before you could
4 convene and meet on any occasion?

5 A A quorum of sixteen.

6 Q Mr. Beer, did there come a time when a man by
7 the name of William Doulin appeared as a witness before
8 your grand jury?

9 A Yes.

10 Q Do you see Mr. Doulin in the courtroom today?

11 A Yes, I do.

12 Q Would you point him out to us, please?

13 A The gentleman sitting right there with the red
14 tie.

15 THE COURT: Indicating the defendant.

16 Q Did Mr. Doulin testify when he appeared before
17 the grand jury?

18 A Yes, he did.

19 Q Was he under oath at that time?

20 A Yes, he was.

21 Q Were you present that day?

22 A Yes, I was.

23 Q Now, Mr. Beer, would you tell us what in general
24 terms the grand jury on which you were serving was
25 investigating?

MR. PLATZMAN: I will object to the form of that question. I would like to know what the grand jury was doing, actually did, and determine the nature of the investigation.

THE COURT: Overruled.

Q Did you hear the question, sir? You may answer it.

A They were investigating gambling in the City of Newburgh.

Q With respect to the City of Newburgh and gambling, what were they investigating, in general terms?

MR. PLATZMAN: If it please the Court, may I have a continuing objection to this on that same basis, so I won't have to object?

THE COURT: You can object now, you can object later, but outside the presence of the jury I want you to object specifically and state the grounds on each occasion.

MR. PLATZMAN: I object on the same ground as I did before; in general, a description of the investigation in general terms. I urge that we want to know what in fact the grand jury was determining to determine the question of materiality.

THE COURT: He said they started by investigating gambling in the City of Newburgh. I think that is pretty

Beer-direct

1 Gwmch

2 specific.

3 Let's continue.

4 MR. JOSSEN: I believe there is a pending

5 question.

6 Would the reporter please read the question

7 again?

8 (Record read)

9 A If any publicly elected official or city enforce-
10 ment officers were receiving bribes.11 Q During the course of this deliberation, did the
12 grand jury on which you served return any indictment
13 in connection with this investigation in the Newburgh area?

14 A Yes, they did.

15 Q Can you tell us, sir, the names of any of the
16 individuals who were indicted by that grand jury?17 A Sergeant Billie Lee, a police officer, Kay Thorpe,
18 Alan Handler. There were a couple more before I sat on
19 the panel.20 Q Now, Mr. Beer, in connection with this investigation
21 of the grand jury, had the names of any public officials
22 or politicians been mentioned during the course of this
23 investigation?

24 A Yes.

25 Q Would you tell us the name of any of the

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Beer-direct

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2 politicians or public officials which you recall being
3 mentioned?

4 A Mr. Doulin and the former mayor of Newburgh.

5 Q For what purpose, sir, did Mr. Doulin appear
6 as a witness before the grand jury?

7 A If he had some knowledge of the gambling and
8 the bribes in the City of Newburgh regarding gambling.

9 (Continued on next page)

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Beer - direct/cross

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Q Mr. Beer, you mentioned earlier that one of the individuals indicted by the grand jury was a man by the name of Billy Handler.

Does it refresh your recollection if I use the name Alan Handler?

A Alan Handler, right.

Q You also testified, sir, that there were certain other indictments in the same area which the grand jury handed up prior to the time that you began your service on it.

Do you remember the names of any of the individuals who were so indicated by that grand jury?

A Yes, Red Skipworth and Politti.

MR. JOSSEN: No further questions of this witness, your Honor.

THE COURT: You may cross examine, Mr. Platzman.

CROSS EXAMINATION

BY MR. PLATZMAN:

Q Mr. Beer, how long had you been sitting on the grand jury before Mr. Doulin was called before the grand jury?

A Approximately two months.

Q Had the grand jury received any information

1 gwjw 2 Beer - cross

2 during that period concerning Mr. Doulin?

3 A In respect to what, sir?

4 Q In respect to anything.

5 A His name was mentioned.

6 Q Can you tell us in what manner, what was the
7 subject of the mentioning?

8 A People approached him to do favors, to overlook
9 certain things that were happening in the City of Newburgh.

10 Q Can you tell us any specific --

11 A Regarding gambling and bribe payoffs.

12 Q Can you tell us any specific evidence that
13 you were familiar with prior to the time that Mr. Doulin
14 came there that had come before the grand jury concerning
15 Mr. Doulin?

16 A Well, people came to him for favors.

17 Q Was there any identification of the people
18 who came to him?

19 A Alan Handler's sister was one that was
20 supposed to have gone to him.

21 Q Who was that?

22 A Alan Handler's sister.

23 Q What, as far as you knew, did Alan Handler's
24 sister do with Mr. Doulin?

25 A Tried to see if he could do anything to get

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Beer - cross

2 do anything to get him out of jail and have the charges
3 dropped.

4 Q What else did she testify to?

5 A That's it.

6 Q Did she testify as to what Mr. Doulin said
7 to her?

8 A He said he would try to do something.

9 Q Was there any testimony as to what Mr. Doulin
10 did do following that testimony?

11 A As far as I remember, he said he always told
12 anyone who came to see him he would try and do something.

13 Q No, I'm not saying about that.

14 THE COURT: I don't think you understood
15 counsel's question.

16 MR. PLATZMAN: I'm sorry, I didn't phrase that
17 right.

18 THE COURT: You did. I don't think the
19 witness understood it. Why don't either you rephrase it
20 or have the court reporter read it back.

21 MR. PLATZMAN: I'll have the court reporter
22 read it back.

23 THE COURT: Mr. Reporter, will you read
24 counsel's last question.

25 (Record read)

gwjw 3 Beer - cross

her brother out of jail for the charges brought against him.

Q Was there any testimony concerning that?

MR. JOSSEN: Objection, your Honor. The witness has already answered.

THE COURT: I will allow a yes or no answer.

A Would you repeat the question, please.

THE COURT: Mr. Reporter, please.

(Question read)

A Yes, she appeared there.

Q Did she testify?

A She testified.

Q What was her testimony?

A That she had gone to see Mr. Doulin, what he could do.

Q What else did she testify to?

MR. JOSSEN: Objection, your Honor.

THE COURT: No, he is doing fine. He has convinced me already. I am going to let him keep going.

Go ahead, counsel. Just by your questions alone you have convinced me. I did not need the direct examination. You may continue.

What else did she testify about?

THE WITNESS: She testified that if he could

1 A What he did do, there was no testimony to that.

2 THE COURT: In other words, she approached him
3 and asked him to try and do something to get her brother
4 out of jail?
5

6 THE WITNESS: Right.

7 THE COURT: Did she then testify that he did
8 something or did not do something or didn't she testify
9 further?

10 THE WITNESS: All she testified, he said he
11 would try and do something and that was it.

12 Q Was there testimony of anybody else other than
13 Mr. Doulin as to what Mr. Doulin did after Mr. Handler's
14 sister's request?

15 A Not that I know of.

16 Q What was the name of this woman, do you
17 remember?

18 A No.

19 Q All right.

20 In any event, you remember it was Mr. Handler's
21 sister?

22 A That's all I remember.

23 Q Was there anything else that transpired
24 at that grand jury concerning Mr. Doulin prior to the time
25 that Mr. Doulin was called to testify?

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A Well, we had Kay Thorpe in.

Q I didn't hear that.

THE COURT: "We had Kay Thorpe in."

A Alan Handler was brought in.

Q I beg your pardon?

A Alan Handler.

Q And Mr. Handler?

A Right.

Q Kay Thorpe, is that a woman or a man?

A Woman.

Q A woman.

Did she testify?

A Yes.

Q Can you tell us what she testified to, to the best of your recollection?

MR. JOSSEN: I am going to object to the question, your Honor.

Are we referring specifically to whether Mr. Dublin was mentioned in her testimony?

THE COURT: I guess it should be broader than that. He wants to establish the scope of the grand jury inquiry, and I think the scope is relevant on the question of materiality.

I will allow it.

1 A As far as Mr. Doulin was concerned, I don't
2 remember her mentioning him. She was asked about the
3 gambling situation in Newburgh.
4

5 THE COURT: Was she asked about payoffs to
6 public officials?

7 THE WITNESS: Yes, she was.

8 Q Do you recall whether Mr. Doulin's name was
9 mentioned in any way?

10 A That I don't recall.

11 THE COURT: What were the payoffs supposed
12 to be for?

13 THE WITNESS: To numbers running, gambling
14 at different places and also house of prostitution was
15 named, payoffs to keep that under wraps, to law enforce-
16 ment officers.

17 Q Was there any testimony prior to the time that
18 Mr. Doulin was called by anyone else concerning Mr. Doulin?

19 A Not that I recall.

20 Q Were you investigating any specific gambling
21 organization that you know of?

22 A Organized crime generally in Newburgh.

23 Q Was there any discussion at the time, either
24 at the time of the testimony of any of the witnesses that
25 you mentioned or prior thereto, as to any specific gambling

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1 gwjw 8

Beer - cross

2 organization?

3 A One in particular was numbers running by Alan
4 Handler.

5 Q That was one of the men that was indicted?

6 A Yes.

7 MR. PLATZMAN: Excuse me just one moment,
8 your Honor.

9 THE COURT: Certainly. Take your time.

10 (Pause)

11 Q Was Mr. Handler indicted by the grand jury?

12 A Yes, he was.

13 Q Did the grand jury have in its possession any
14 documents or records that were submitted to the grand
15 jury that were in any way related to the testimony that
16 you have just described?

17 MR. JOSSEN: Objection, your Honor.

18 THE COURT: Sustained, form.

19 Q With respect to the testimony that you have
20 just furnished, do you know whether the grand jury was
21 in possession or ever received in evidence any documents
22 or records?

23 MR. JOSSEN: Objection, your Honor.

24 THE COURT: Sustained, form.

25 You have to be more specific, counsel, with

your question.

He has covered a fair amount of testimony, and I think to ask a blanket question would be inappropriate.

Q Can you tell us whether any documents or records were received by the grand jury either by way of evidence or as exhibits that related in any way to the testimony of Mr. Handler's sister?

MR. JOSSEN: Objection, your Honor, relevance.

THE COURT: I will allow it.

A No, we had not.

Q How about any documents or records or exhibits that you may recall that were received by the grand jury in connection with the testimony of Kay Thorpe?

A We did not.

MR. PLATZMAN: I have no other questions.

MR. JOSSEN: May I have a moment, your Honor?

THE COURT: Yes.

(Pause)

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Beer-redirect/recross

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REDIRECT EXAMINATION

BY MR. JOSSEN:

Q Mr. Beer, you testified on cross-examination
you recalled the testimony of Alan Handler's sister.

Does it refresh your recollection that it was
Alan Handler's wife?

A I believe it was his wife.

THE COURT: Please keep your voice up.

THE WITNESS: Yes.

A It was his wife, not his sister.

MR. JOSSEN: Your Honor, I have no further
questions for the witness at this time.

MR. PLATZMAN: I am sorry.

RECROSS-EXAMINATION

BY MR. PLATZMAN:

Q Was Kay Thorpe also indicted?

A Yes.

Q What happened to her?

MR. JOSSEN: Objection, your HONOR.

THE COURT: Sustained. I don't see the relevance
of that.

Q Do I gather, then, whatever you testified to con-
cerning Alan Handler's sister is really applicable to Alan
Handler's wife?

1 2 Gwmch

2 A Yes.

3 MR. JOSSEN: Objection, your Honor.

4 THE COURT: I think that is appropriate.

5 Q Whatever your answers were on the prior questions,
6 they would apply equally as well?

7 A Yes.

8 MR. PLATZMAN: Thank you.

9 MR. JOSSEN: Nothing further at this time from this
10 witness.

11 THE COURT: You are excused.

12 MR. JOSSEN: Your Honor, I would request, however,
13 the witness remain in the witness room. We may have some
14 other questions for him.

15 THE COURT: Well, you are excused for now.
16 Remain in the witness room, please.

17 (Witness excused)

18 MR. JOSSEN: The Government calls Joseph Paul
19 Ciccone.

20 J O S E P H P A U L C I C C O N E,

21 called as a witness by the Government, being first
22 duly sworn, testified outside the presence of the
23 jury, as follows:

24 MR. JOSSEN: May I proceed, your Honor?

25 THE COURT: Yes.

DIRECT EXAMINATION

BY MR. JOSSEN:

Q Mr. Ciccone, please keep your voice up so everyone in the courtroom can hear you.

How are you employed, sir?

A I am employed as an associate technician, research and development, Lifesavers, Inc.

Q Where is that located?

A Port Chester, New York.

Q Did there come a time, sir, when you served as a grand juror on a grand jury?

A Yes, I still serve on that grand jury.

Q Where does that grand jury sit?

A It sits in this building on the fourteenth floor.

Q Is that in the Southern District of New York?

A Yes, it is.

Q Tell us how you became a grand juror.

A I received a letter in the mail to report down here and I was selected for a grand jury.

Q Does the grand jury on which you serve have a particular title or name?

A It's the January 21, 1975 additional grand jury, and I believe it charges corruption of public officials.

Q Did there come a time, Mr. Ciccone, when a man

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2 by the name of William Doulin appeared as a witness before
3 the grand jury?

4 A Yes.

5 Q Were you present in the grand jury that day?

6 A Yes, I was.

7 Q Do you see Mr. Doulin in the courtroom today?

8 A Yes.

9 Q Would you point him out to us, please?

10 A Over there (indicating).

11 MR. JOSSEN: May the record reflect the witness
12 has identified the defendant.

13 THE COURT: Which gentleman?

14 THE WITNESS: The man with the red tie, white.

15 THE COURT: Indicating the defendant.

16 Q Did Mr. Doulin give testimony on that day before
17 the grand jury?

18 A Yes, he did.

19 Q Would you tell us, sir, what, in general terms,
20 the grand jury was investigating on which you served?

21 A Well, we investigated a number of things. The
22 man title is corruption grand jury, and we investigate
23 any corruption or possible corruption of public officials
24 or people some way in the public trust, if they work some
25 way in the public trust.

1 GWmch

Ciccone-direct

2 We investigate anything that is an offshoot
3 from that, also.

4 MR. PLATZMAN: Anything what?

5 THE WITNESS: Any kind of an offshoot, such as
6 tax evasion.

7 Q Do you recall any specific crimes that you
8 were investigating?

9 A Yes. We investigated a tax evasion case, we
10 investigated a mail fraud case, we investigated defrauding
11 of a raceway.

12 Q Mr. Ciccone, did there come a time when the
13 grand jury was investigating any particular incident or
14 events in Orange County, New York?

15 A Yes.

16 Q Would you tell us what the grand jury was
17 investigating?

18 A We were investigating the possibility that
19 some influence had been used to change a verdict or change
20 a sentence in a case that had occurred in Orange County.

21 Q Do you remember the name of the case that you
22 were investigating?

23 A Well, the name of the defendant in the case was
24 Monell, Mr. Monell.

25 Q Now, sir, in the course of the grand jury

2 investigation, were the names of any public official or
3 politicians mentioned before the grand jury?

4 A Yes.

5 Q Would you tell us what names were mentioned?

6 A There was a Mr. Weissman, Mr. -- I think his name
7 was Cohen, there was Mr. Doulin's name, there was a Judge
8 Ingrassia, I think. There was another judge's name.
9 I don't remember his name now.

10 There were some lawyers. Do you want the lawyers'
11 names?

12 Q Yes.

13 What lawyers were mentioned?

14 A The lawyers mentioned were Mr. Spano, I think his
15 name was, and his son, and a Legal Aid attorney, Mr.
16 Shapiro.

17 Q Now, in the course of the grand jury investigation,
18 did the grand jury on which you served return any indictments?

19 A Yes, we returned two indictments, as I remember it.

20 Q What two indictments were they?

21 A We indicted Mr. Weissman for perjury and Mr.
22 Doulin.

23 Q Were any other indictments returned by the grand
24 jury on which you served?

25 THE COURT: What did you indict Mr. Doulin for?

THE WITNESS: Perjury.

Q Were any other indictments returned by the grand jury on which you served?

A Yes.

You mean in that case or in other cases?

Q In other cases.

A Yes, in other cases. I don't think there was any other in that case.

Do you want me to name some indictments?

Q Yes. Would you give us some of the names of other indictments returned by the grand jury?

A We indicted Mr. Greenberg of Sullivan County Raceway.

THE COURT: Leon Greenberg?

THE WITNESS: Leon Greenberg, yes.

A And Mr. Goldman, cultural administrator at one time for New York City.

And those are the only two names offhand I remember. We indicted other people. I just don't remember their names.

THE COURT: Was Mr. Goldman Irving Goldman?

THE WITNESS: Yes.

MR. JOSSEN: May I have a moment, your Honor?

THE COURT: Yes.

(Pause)

Q Mr. Ciccone, do you recall whether at any time during the grand jury investigation the sworn testimony of Mr. Doulin before another grand jury was read to you?

A Yes.

MR. JOSSEN: No further questions of the witness at this time, your Honor.

THE COURT: Mr. Platzman, you may inquire.

CROSS-EXAMINATION

BY MR. PLATZMAN:

Q Mr. Ciccone, when did you join that grand jury?

A I was picked for that grand jury on the 21st day of January, 1975.

Q Had that been in session before that?

A No. It was picked that day.

Q And you have been on that grand jury ever since?

A Ever since.

Q When you were first selected -- no --

MR. PLATZMAN: I withdraw that.

Q When, to the best of your recollection, did the grand jury start its investigation concerning this Monell case or what was happening in Orange County?

A You mean a date?

Q Yes, approximately.

1
2 A It was fairly soon after we were seated as a
3 grand jury. Within a month or two.

4 Q Prior to that you had been discussing other
5 matters; is that right?

6 A Yes.

7 Q And can you tell us the circumstances under which
8 you started to deliberate in connection with the Monell
9 case?

10 A Yes. I believe we were trying to find out if
11 anyone knew of any influence that had been used to influence
12 a public official to help have the charges dropped, or the
13 sentence lowered, sentence made shorter, or something like
14 that.

15 Q And how was that presented to you? Who presented
16 that information to you?

17 A Well --

18 Q Did the U. S. Attorney do that?

19 A Yes, the U. S. Attorney gave us the information.

20 Q Do you remember the first time that was discussed
21 by the U. S. Attorney?

22 A I don't understand. The first time what was
23 discussed?

24 MR. JOSSEN: Objection, your Honor.

25 THE COURT: Sustained.

Would you rephrase the question?

Q You say the matter was presented to you by the U. S. Attorney?

A Yes.

Q That happened for the first time on a specific date; is that right?

MR. JOSSEN: Objection, your Honor.

THE COURT: Sustained.

Q Tell us when that took place.

MR. JOSSEN: Objection, your Honor, as to form.

THE COURT: Sustained as to form.

Would you rephrase the question from the beginning.

Q You stated that this question of investigation of the Monell matter was presented to you initially by one of the U. S. Attorneys?

A Yes.

Q Who was that? Which U. S. Attorney, do you remember?

A Well, I am not really sure which attorney it was.

Q Whoever it was, when was the first time he mentioned it to the grand jury?

MR. JOSSEN: Objection, your Honor. Irrelevant.

THE COURT: No, I will allow him to answer it, if

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2 he can.

3 A I really don't know an exact date when it was
4 first brought up.

5 Q Whatever that was, whatever date that was, tell
6 us what he said to you.

7 MR. JOSSEN: Objection, your Honor. Irrelevant,
8 again.

9 THE COURT: Overruled.

10 A Could you just change the form of that? I don't
11 really understand what you are asking me.

12 THE COURT: He doesn't understand the question.
13 Very well.

14 Q What I am getting at, Mr. Cicccone, the U. S.
15 Attorney, whoever he happened to have been, introduced this
16 Monell matter and I want to know what he said to you at
17 the time he introduced it to you.

18 A To the best I can remember, he must have come in
19 and started telling us in general what the case was about,
20 and it must have been about the fact whether or not anybody
21 had used any public influence to influence the change of
22 sentence of Mr. Monell.

23 Q Did he say anything else?

24 A At that time, I don't remember.

25 Q Did he describe what happened in the Monell case?

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2 A At some time it was described what happened
3 in the Monell case, yes.

4 Q What did he tell you happened in the Monell case?

5 A Well --

6 MR. JOSSEN: Objection, your HONor.

7 THE COURT: Sustained.

8 MR. PLATZMAN: Is that on the question of rel-
9 evancy?

10 THE COURT: At the moment. And the question of
11 form of your questions.

12 Q Tell us what this U. S. Attorney told you about
13 the Monell case.

14 MR. JOSSEN: Objection, your Honor; relevance.

15 THE COURT: I will allow that. It's cross-
16 examination.

17 A Well, there was a man who was up on charges of
18 assault, his name was Mr. Monell. He pleaded guilty to
19 a charge lesser than the charge that he originally was
20 charged with. He was sentenced to 2-1/2 years -- zero to
21 2-1/2 years, and I don't know exactly where, and when he
22 got there they had to let him go back to Orange County
23 because the charge -- there was something about an old
24 law, new law. It was a wrong sentence. It should have
25 been some other sentence. And when he came back again

2 he was given five years probation.

3 Q Did he tell you anything else?

4 A I don't know.

5 Q Was there any mention at that time of Mr. Doulin?

6 A Well, at some time Mr. Doulin was mentioned
7 because he was a witness. I just don't remember if it was
8 the first day.

9 You are asking about the first time?

10 Q Yes, the first time.

11 A I don't remember if it was the first time.

12 Q Did there come a time before Mr. Doulin was a
13 witness when Mr. Doulin's name was mentioned again?

14 A His name would be mentioned probably before he
15 walked into the jury room, but I couldn't remember
16 directly. They would say, "I am bringing in Mr. Doulin
17 to testify," and then they would bring him in. They would
18 tell us what case he was involved in. I don't remember if
19 he was mentioned ahead of time.

20 (Continued on next page)

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lin 2 Q Do you recall whether in the explanation that
3 was given to you by the United States Attorney concerning
4 the Monell case, whether at that time a record was made
5 of the statements to the grand jury?

6 MR. JOSSEN: Objection as to form, your
7 Honor.

8 THE COURT: If he understands the question,
9 I will let him answer it.

10 A Could you ask it some other way?

11 THE COURT: He does not understand.

12 Q Was there a grand jury reporter, a stenographer,
13 a reporter taking notes?

14 MR. JOSSEN: Objection, relevance, your Honor.

15 THE COURT: Sustained.

16 Q During these proceedings, during all these
17 proceedings that we have been talking about, was there a
18 reporter?

19 MR. JOSSEN: Objection, your Honor, relevance.

20 THE COURT: Sustained.

21 Q Do you have any independent recollection as
22 to what information you and other members of the grand
23 jury had concerning the Monell case prior to the time
24 that Mr. Doulin was called as a witness?

25 MR. JOSSEN: Objection as to form, your Honor.

1 gwjw 2

Ciccone - cross

2 THE COURT: Why don't you just rephrase the
3 question.

4 Q Do you have any recollection concerning infor-
5 mation that you and other members of the grand jury
6 had relative to the Monell case prior to the time that
7 Mr. Doulin was called in as a witness?

8 A I'm not really sure. See, usually before
9 any witnesses come in we are given a brief outline of what
10 we are investigating in the case.

11 I don't remember exactly what I had before
12 Mr. Doulin came in. We had a series of witnesses that
13 came in and I don't know in which order Mr. Doulin came
14 in.

15 Q So that I gather from your testimony that
16 before each witness entered, the United States Attorney
17 would describe what you are investigating and discuss
18 perhaps the general purpose of bringing that witness;
19 is that true?

20 MR. JOSSEN: Objection, your Honor.

21 MR. PLATZMAN: This is what the witness
22 testified. I am trying to point it down a little more.

23 THE COURT: It is argumentative.

24 MR. PLATZMAN: I am trying to define it a little
25 more accurately than he testified.

1 gwjw 3

Cicccone - cross

2 THE COURT: Let's hear the question again.

3 (Question read)

4 THE COURT: Sustained.

5 Q Do you remember what witnesses were called
6 before Mr. Doulin in connection with the Monell case?

7 A Before he was there?

8 Q Yes.

9 A I'm not sure which order we had witnesses,
10 no.11 Q Do you recall whether you were exhibited any
12 documents?

13 A Yes.

14 Q By the United States Attorney prior to the
15 time that Mr. Doulin was called in.16 A I'm not sure. I'm sure there were documents.
17 I'm not sure which order they came in in the case.18 Q Were you told by the United States Attorney
19 that there were tapes in existence that had been taken
20 of conversations in which Mr. Doulin was involved?

21 A I don't recall.

22 THE COURT: You do not recall being told
23 that?

24 THE WITNESS: No, I don't recall being told

25 that.

1 gwjw 4

Ciccone - cross

2 Q Would you remember how many United States
3 Attorneys were involved in the presentation of evidence
4 before you during the time of investigation of the
5 Monell case?

6 MR. JOSSEN: Objection as to form, your Honor.

7 THE COURT: I will allow it if he can answer
8 it.

9 A You want to know how many --

10 THE COURT: How many different assistants
11 worked with your grand jury in connection with the Monell
12 case?

13 THE WITNESS: I really -- I'm really not sure
14 because we have so many different assistant attorneys come
15 in with different cases. It happened a while ago.

16 Q Prior to that time that Mr. Doulin testified,
17 were you told or given any information concerning testimony
18 before the grand jury of Richard Monell, the individual
19 himself?

20 A We at one time were told -- I don't know if
21 it was in front of the grand jury.

22 Q Do you remember whether you were told that
23 Richard Monell had been interviewed and had supplied
24 statements?

25 A At some time I recall something about Richard

Monell statements, yes.

Q Do you know what these statements were?

A I think something allegedly that things -- not to worry because things were being taken care of, something like that, to that effect.

Q Were you exhibited any written statements?

A I don't recall.

Q Were you exhibited any minutes of any grand jury interrogation of Mr. Monell?

A Of Mr. Monell? I'm not sure. I don't recall that.

Q Do you recall whether there was exhibited to you the testimony that took place before the 1972 grand jury in connection with the Monell case?

A In connection with the Monell case, yes. Mr. Monell's testimony I don't remember. It was Mr. Doulin's testimony that was presented before us.

Q That you received?

A That we received, yes.

Q Did you receive the testimony of any other witness in connection with that case that was elicited at that same grand jury, the 1972 grand jury, if you remember?

A I don't recall any other ones.

✓ 1 gwjw 6

Ciccone - cross

2 Q Do you recall whether any other documents were
3 presented to you before Mr. Doulin appeared before you in
4 connection with the Monell case?

5 A No, I don't. I don't recall, no.

6 Q Do you recall what other witnesses testified
7 before Mr. Doulin testified?

8 A There's a problem with it before Mr. Doulin.
9 I don't remember in what order they came in so I can't --
10 I know there was other witnesses, but I don't know if
11 they were before Mr. Doulin.

12 Q To the best of your recollection, at the
13 time you heard Mr. Doulin testify, had you already received
14 by way of either evidence or statement of a United States
15 Attorney that Mr. Doulin was influential in changing the
16 sentence of Mr. Monell from that of a jail sentence to
17 probation?

18 MR. JOSSEN: Objection, your Honor.

19 THE COURT: If you recall.

20 A Could you rephrase that or something?

21 Q Yes. What I am trying to find out is, there
22 came a time when Mr. Doulin came to the grand jury and
23 testified.

24 A Correct.

25 Q I want to know whether before that date had

1 gwjw 7

Ciccone - cross

2 you already been advised by someone, either the United
3 States Attorney or by other witnesses or by reading some
4 prior testimony or the statements of Mr. Monell, anything,
5 and I'm not limiting it to what I just described, that Mr.
6 Doulin had been influential in the Monell and changing
7 a sentence from that of a jail sentence to probation?

8 A I don't know if it was -- at some time we were --
9 at some time it came -- it became evident that Mr. Doulin
10 knew something about what was going on. Whether this
11 happened before Mr. Doulin testified or after, I -- it
12 must have been after because we had a number of witnesses.
13 I don't know which order they came in.

14 Some witnesses said Mr. Doulin was involved,
15 and I'm not sure if that was before or after.

16 Does that answer your question?

17 Q Yes, it answers it except I'm hoping perhaps
18 your recollection might be a little bit better, if you
19 think you can try.

20 A I don't remember in what order things occurred
21 in that case, you know, in certain cases, certain people
22 I know, that they were there after Mr. Doulin. I don't
23 remember if other people and other testimony was before
24 Mr. Doulin or after Mr. Doulin.

25 Q Can you tell us whether in your own mind you

1 gwjw 8 Ciccone - cross

2 have any recollection as to whether you did reach a
3 conclusion that Mr. Doulin was involved in changing a
4 sentence and that that conclusion had been reached by
5 you at the time that Mr. Doulin came to testify?

6 MR. JOSSEN: Objection, your Honor.

7 THE COURT: Sustained.

8 Q Was your investigation, to the best of your
9 knowledge, concerned primarily in connection with this
10 official corruption with whatever took place in the
11 Monell case?

12 A Could you just say that some other way? I
13 don't really understand it.

14 Q Was it the Monell case that was being investi-
15 gated at the time for the purpose of determining corruption
16 in the area?

17 A We were investigating whether any influence
18 was used in the Monell case and in other cases, in any
19 cases whatsoever.

20 Q What other case?

21 A Whenever a question was asked, it was always,
22 do you know anything about any influence or any attempt
23 to influence public officials in this case, and then the
24 next question would be, or in any other case, that kind
25 of thing.

1 gwjw 9

Ciccone - cross/redirect

2 Q Was any other case ever investigated?

3 MR. JOSSEN: Objection, your Honor.

4 THE COURT: Sustained.

5 MR. PLATZMAN: No other questions.

6 MR. JOSSEN: Just one or two quickly, your

7 Honor.

8 REDIRECT EXAMINATION

9 BY MR. JOSSEN:

10 Q Mr. Ciccone, you were asked on cross examination
11 a number of questions with respect to whether you recalled
12 testimony of Mr. Monell or others being read to you.

13 MR. JOSSEN: Can I have this marked?

14 THE COURT: It will be a Court's exhibit.

15 (Court's Exhibit 2 marked)

16 MR. JOSSEN: May I have this marked Court's
17 Exhibit 3 for identification.

18 (Court's Exhibit 3 marked)

19 Q Mr. Ciccone, I place before you Court's
20 Exhibits 2 and 3 for identification.21 Would you read those to yourself and tell me
22 when you are finished.

23 (Pause)

24 Q Sir, does that refresh your recollection as
25 to whether the testimony of any witnesses was read to you?

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Cicccone - redirect

2 A Yes.

3 Q What testimony was read to you?

4 A The testimony of Mr. Monell, I believe it was
5 his girlfriend at the time, Miss York or Mrs. York, and
6 Mr. Shapiro. Evidence was read from Mr. Shapiro.

7 THE COURT: Keep your voice up, please.

8 THE WITNESS: Yes, sir.

9 Q Finally, Mr. Cicccone, was Mr. Doulin's
10 grand jury testimony before the August 1972 grand jury
11 read to your grand jury?

12 A Yes, it was.

13 Q One final question.

14 Showing you again Court's Exhibits 2 and 3
15 for identification, Mr. Cicccone, and pointing to the top
16 date, does that refresh your recollection as to when
17 such testimony was read to you?

18 A It doesn't refresh my memory when it was. I
19 can read the date off.

20 Q Fine.

21 MR. JOSSEN: No further questions.

22 MR. PLATZMAN: I have some questions, if your
23 Honor please.
24
25

2 RECROSS EXAMINATION

3 BY MR. PLATZMAN:

4 Q Mr. Ciccone, I must confess that I don't know
5 whether I heard all of your testimony a moment ago.

6 Did I gather that in response to questions put
7 to you on redirect examination you indicated that you had
8 seen prior to the time that Mr. Doulin testified before
9 your grand jury the testimony of Mr. Doulin on the '72
10 grand jury, that you had also seen the testimony of Mr.
11 Monell on September 4, 1974; is that right?

12 MR. JOSSEN: Objection, your Honor.

13 THE COURT: If it is right, say so. If he
14 is not right, say he is not right.

15 THE WITNESS: He's not right.

16 Q Do you remember the date of Mr. Monell's
17 testimony before the grand jury?

18 A Mr. Monell never testified before the grand
19 jury.

20 Q I withdraw the question. I think I may have
21 not been too clear in my question.

22 You saw Mr. Monell's prior testimony?

23 A At some time it was read to me. I don't
24 know if I saw it.

25 Q It was read to you.

Do you recall whether that testimony that was read to you had been taken before the grand jury on September 4, 1974?

A No, I don't recall the date.

Q I show you Government's Exhibit for identification 3505 and ask you whether that would refresh your recollection? You may examine the document to see whether that refreshes your recollection as to the testimony that was read to you of Mr. Monell.

A No, I don't recall. I just don't recall if this was what was read to me or not unless you want me to read the whole thing.

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Ciccone-recross

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Q Well, let me see if I can get a concession.

Would counsel concede that this was the testimony that was read to the grand jury?

MR. JOSSEN: Yes.

MR. PLATZMAN: Thank you. I should like to offer this in evidence as a Court's exhibit.

THE COURT: Admitted. Next Court exhibit, whatever it is.

(Court's Exhibit No. 4 was received in evidence.)

THE COURT: You are offering that one. 2 and 3, as I remember, have been marked for identification.

Is there any objection to the offer of 4?

MR. JOSSEN: No objection.

THE COURT: I will see it.

(Court's Exhibit No. 4 was handed to the Court.)

MR. PLATZMAN: Outside of his recollection, will counsel concede this was the testimony that was read to the grand jury?

MR. JOSSEN: What are you referring to?

MR. PLATZMAN: Court's Exhibit No. 4.

THE COURT: The exhibit contains the testimony of Richard Monell on September 4, 1974 before the grand jury. This jury of which the witness was a member -- is a member came into existence in 1975. So the testimony

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2 here would not have been testimony taken before this
3 witness' grand jurh.

4 Was it testimony before the August 22, 1972
5 additional grand jury or some other grand jury? That
6 doesn't really matter. The question is whether it was
7 testimony which was presented to the 1975 grand jury in
8 transcript form.

9 MR. JOSSEN: Yes, it was, and read to them.

10 MR. PLATZMAN: No other questions.

11 MR. JOSSEN: No further questions.

12 THE COURT: Thank you very much.

13 Do you want this witness to remain?

14 MR. JOSSEN: I don't believe it's necessary, your

15 Honor.

16 THE COURT: You are excused. Thank you.

17 (Witness excused)

18 MR. JOSSEN: May I have a moment, your Honor?

19 (Pause)

20 MR. JOSSEN: Your Honor, for the purposes of this
21 hearing, at this time the Government' offers into evidence
22 formerly Government's Exhibits 24 and 25 for identification
23 to be marked as Court's Exhibits for this hearing, the
24 grand jury testimony of Mr. Doulin on the two occasions when
25 he appeared before the grand jury, namely, June 25, 1973

and February 12, 1975.

THE COURT: Those are being offered just for the purpose of this hearing outside the presence of the jury. Those are transcripts of Mr. Doulin's testimony on the two occasions he appeared before the grand jury.

MR. PLATZMAN: No objection.

(Court's Exhibits Nos. 5 and 6 were received in evidence.)

THE COURT: They are also, so the record is clear, are Government's Exhibits 24 and 25 for identification.

MR. JOSSEN: Your Honor, the Government also offers into evidence for purposes of this hearing alone at this time, as Court exhibits, the exhibits and grand jury testimony of Abraham J. Weissman on April 2, May 28 and June 11, all in 1975, and all before the January 1975 additional grand jury.

MR. PLATZMAN: For the limited question of materiality before your Honor who is going to determine this as a question of law?

THE COURT: That is correct.

MR. PLATZMAN: Then I have no objection.

THE COURT: It is not being offered as evidence to be presented to the jury in the case on trial. It is

solely for submission to the Court on the issue of materiality and, of course, may be considered by any appellate court which reviews this case on that issue.

MR. PLATZMAN: And I do reserve any rights with respect to objecting to this in the event of a presentation before this jury?

THE COURT: Yes, but you do not object to it being considered by the Court as part of the record to be considered on the issue of materiality which the Court has determined will be determined outside of the presence of the jury by the Court?

MR. PLATZMAN: No objection to that.

(Court's Exhibit No. 7 was received in evidence.)

MR. JOSSEN: May I have a moment, your Honor?

(Pause)

MR. PLATZMAN: Counsel is offering apparently a number of sheets regarding the testimony of Augustus Smerk.

As I have indicated previously to your Honor, I don't want ever to contest questions of authenticity, if counsel tells me this is it. I have no way of knowing. I haven't seen this before. I haven't read it now.

If it is on the question of materiality and either counsel says this is correct and is original, I

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2 will raise no question as to its authenticity.

3 MR. JOSSEN: We make this representation and
4 that is the sole purpose it is being offered for at this
5 time, the question of materiality.

6 I offer the testimony of Augustus Smerk dated
7 June 25, 1973, as a Court exhibit.

8 THE COURT: June 25 --

9 MR. JOSSEN: 1973.

10 THE COURT: That will be the next Court exhibit.
11 (Court's Exhibit No. 8 was received in evidence.)

12 MR. JOSSEN: That is, by the way, your Honor,
13 before the same grand jury before which Mr. Doulin
14 appeared, the August 1972 additional grand jury.

15 With respect to that exhibit, which is Court's
16 Exhibit 8, the Government directs the Court's attention
17 to Page 66 of the transcript.

18 MR. PLATZMAN: May I have a copy of that?

19 THE COURT: Let me read into the record the
20 questions and answers to which I suggest specific reference
21 is made.

22 Page 66, Line 16:

23 "Q And did Alan Handler ever tell you what those
24 expenses were?

25 "A Yes, he did."

xxx

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2 On Line 19:

3 "Did he tell you that out of that thousand
4 dollars between six and seven hundred dollars was going
5 to William Doulin?

6 "A Yes, he did.

7 "Q This money going to William Doulin in order
8 to protect the policy numbers operation being run in
9 Newburgh?

10 "A Yes."

11 I have just read a portion of the transcript
12 but since it is being offered on the question of materiality
13 I think that portion is what counsel wished the Court and
14 defense counsel to direct their attention to.

15 Is that right?

16 MR. JOSSEN: That is correct, your Honor.

17 MR. PLATZMAN: I have some concern-- may we
18 approach the bench for a moment?

19 THE COURT: Yes.

20 (At the side bar)

21 MR. PLATZMAN: There are people from the press
22 here. Your Honor read this and I didn't expect this at
23 the moment, and I certainly wouldn't want this to get
24 into the newspapers. If it does, I will holler bloody
25 murder. These people live in Rockland. With all the

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2 instructions in the world --

3 THE COURT: Who is that?

4 MR. JOSSEN: Might I just state for the record
5 that we certainly don't want this in the newspaper, but
6 the statement you just read has been in the press
7 before --

8 THE COURT: Whether it's been in before or not
9 I don't know, but the point that I would make at this
10 juncture is I don't want it in now, so that this jury can
11 read it.

12 MR. JOSSEN: I certainly agree.

13 THE COURT: Do you know which people here are
14 representatives of the press? *

15 MR. PLATZMAN: I know two of them. One is the
16 heavy-set fellow sitting on the right, and then this
17 younger man here.

18 Everybody else seems to have walked out.

19 (Discussion off the record)

20 MR. PLATZMAN: He doesn't know except he knows
21 those two fellows are.

22 I certainly would be terribly upset if any
23 of this appears in the newspapers, thus a possibility of
24 some juror reading it by chance, with honest intentions
25 of not being affected, but curious to know what goes on

2 in newspapers; this is human nature. I don't know what
3 steps your Honor can take.

4 THE COURT: I will direct them not to print it
5 until after the trial is concluded, this portion.

6 MR. PLATZMAN: Some of this stuff is confidential.
7 That is the reason we are not having it before the jury.

8 THE COURT: This was an exhibit and it was marked
9 without there being any objection. Once it's an exhibit
10 it's part of the public record. Let me deal with these
11 fellows as I can.

12 (In open court)

13 THE COURT: I believe there are at least two
14 representatives of the press here in the courtroom. I
15 would appreciate it if you will step up for a moment,
16 gentlemen.

17 (Two men approach the bench.)

18 THE COURT: Good afternoon, gentlemen. Would
19 you identify yourselves?

20 MR. POCHE: Ward Poche, Newburgh Evening News.

21 MR. HUNDLEY: Tom Hundley, Middletown Times-
22 Herald Record.

23 THE COURT: Gentlemen, there were some other
24 people in the room when I took this recess, and I wonder
25 if you know whether any of the other people who left the

room are representatives of any newspaper or of the media.

MR. POCHE: I don't believe so.

MR. HUNDLEY: No.

THE COURT: I have asked you to come up for this reason. We have been holding this hearing outside of the presence of the jury, that is, the hearing that began at 2:30 this afternoon, and you just heard me read some material from a grand jury exhibit.

I suggest that if that material is made public prior to the conclusion of this trial and is read by one or another of the jurors, it could very possibly result in a mistrial, so that all the work which we have done would go down the drain.

Therefore, I am going to request in the strongest terms that anything you heard this afternoon when the jury was not here not be published until after the jury has reached a verdict. Then you can give the background of the story.

But the reason we have held this hearing outside of the presence of the jury is that it is inappropriate for the jury to learn of it, and obviously it would frustrate the judicial process if we excused the jury and then this material which has been the subject of the hearing this afternoon found its way into the press and was read

by one or another of the jurors.

The last thing I want to do is interfere with the freedom of the press. I have welcomed you gentlemen to be here for all of the public proceedings, but this is a hearing which has been held at the request of counsel with the Court, outside of the presence of the jury. I would not want them to learn of things which might prejudice one way or another in this case.

I have tried very hard to avoid prejudice, and I know from my own experience that if a juror were to read something that happened when he wasn't here, he would be inclined to remember it despite my admonition to the contrary and would be inclined to relay it to another member of the jury, and that would cause a good deal of hard work on the part of all concerned to go for naught.

I recognize you have your own jobs, but perhaps if I can be assured by you that the material you have heard this afternoon will not be published until after the jury has reached a verdict in this case, you will do your part in assuring not only a fair verdict in this case, although you will have the opportunity, once this jury has reached its verdict, to print the material any way you see fit, but only after a verdict has been reached.

I ask you if I have your promise. I don't want

2 to issue an order. I prefer not to do that. But if I
3 can have your promise that the material that you have
4 heard this afternoon will not be published, that would
5 suffice for the Court.

6 MR. POCHE: I think I can give you my assurance.

7 THE COURT: Thank you, Mr. Poche.

8 MR. HUNDLEY: Yes.

9 THE COURT: Thank you, gentlemen.

10 MR. POCHE: This would apply to any other infor-
11 mation that is elicited this afternoon.

12 THE COURT: Yes. I don't think the hearing this
13 afternoon will cover very much more in the way of new
14 subject matter, and you are welcome to stay, but at the
15 same time I just don't want to do anything, after all our
16 hard work, to jeopardize a verdict in this case.

17 So, if it will help you with your respective
18 editors that I give you an order, I will do that to protect
19 you. I am asking you to do it and I think you understand
20 the reason for my request.

21 Thank you, gentlemen.

22 (Mr. Poche and Mr. Hundley left the courtroom.)

23 THE COURT: Is there anything else?

24 MR. PLATZMAN: I think those two gentlemen that
25 were in there have returned. The fellow in the back, I don't

2 know who he is, but he told Mr. Reutter he is not a member
3 of the press. I don't know what he is.

4 I don't know the other fellow that just walked
5 back in.

6 MR. SCHWARTZ: I will ask Mr. Reutter to check.

7 THE COURT: I think that is the best I can do.

8 MR. PLATZMAN: I hope they don't publish it.

9 THE COURT: You heard what they said.

10 (Discussion off the record)

11 MR. SCHWARTZ: Mr. Reutter has checked with the
12 second gentleman back there. He advises us he is not a
13 member of the press.

14 MR. JOSSEN: As long as we are at the side bar,
15 maybe we can do a few other things right here.

16 The Government would request that the Court take
17 judicial notice of Indictment No. 73 Criminal 56, filed in
18 this district court on January 18, 1973, in the matter of
19 United States v. Anthony Politi, et al.

20 Also, judicial notice of United States of
21 America v. Alan Handler, Indictment No. 73 Criminal 628,
22 filed in the Southern District on June 27, 1973.

23 And also United States of America v. William Lee,
24 Indictment No. 73 Criminal 629, filed in the District
25 Court on June 27, 1973.

2 I also request the Court take judicial notice
3 of United States v. Kay Thorpe, Indictment No. 73
4 Criminal 61, and United States v. Skipworth, 74 Criminal
5 820.

6 MR. PLATZMAN: May I have a copy of those?
-7 What you handed me before -- you gave me the wrong paper,
8 I think, Smerk. It was somebody's testimony.

9 (Document handed to Mr. Platzman by the Court.)

10 THE COURT: The Court will take judicial notice
11 of the indictments to which reference has been made, and
12 request that copies be furnished to counsel for the
13 defendant.

14 MR. SCHWARTZ: We gave you the Cappelli. What did
15 you do with that?

16 MR. PLATZMAN: I left it there somewhere.

17 MR. JOSSEN: One or two other things at the side
18 bar, your Honor.

19 Your Honor, at this time the Government has
20 nothing further on the question of materiality, but we
21 would request the following:

22 We would request that your Honor withhold a ruling
23 at this point for the following reasons. First, we
24 do want to check the testimony of another particular
25 witness who appeared before a grand jury to determine

2 whether he appeared before the same grand jury which Mr.
3 Doulin appeared before. Second, your Honor, quite
4 frankly, we wish to check a reference that was made by
5 the first witness, Mr. Beer, as to what he recalled in
6 connection with the testimony of a certain witness which
7 appeared before the grand jury. We believe there is a
8 possiiblity his recollection is mistaken.

9 We would not want to mislead the Court, so before
10 your Honor rules on the question of materiality we would
11 like to have an opportunity to locate that testimony and
12 check it.

13 MR. PLATZMAN: There is another matter of pro-
14 cedure. On this question of materiality, since it's an
15 independent question, I assume whatever information we
16 would like to supply to the Court, supplementing what has
17 been presented, should take place now rather than await
18 the defendant's case as such.

19 THE COURT: Yes, this is a separate issue and
20 since it's a separate hearing I would expect at this point
21 to turn to you and ask you what you wish to present on the
22 issue of materiality.

23 MR. PLATZMAN: What I have done is, I had
24 expected, as I told Mr. Schwartz and Mr. Jossen, to try to
25 obtain evidence from three sources:

2 One, the grand jury, which I have started
3 exploring now. I would like to see transcripts of testimony
4 of all witnesses, documents, exhibits, that were produced
5 prior to the time that Mr. Doulin was called as a witness.
6 I would like similar data concerning the reports and
7 investigation of the FBI. I served them with a subpoena,
8 but it was broad, and Mr. Schwartz correctly indicated,
9 and for which I apologized this morning, that it wasn't --
10 and I should have discussed it with him.

11 I also would have liked to be able to call such
12 members of the U. S. Attorney's office who conducted
13 these investigations to determine what information they had
14 by way of reports, affidavits, documents, sworn testimony,
15 et cetera. Mr. Schwartz advises me that it is the policy
16 of the U. S. Attorney's office not to testify, although
17 I think he said something about discussing it further.
18 So I'd like to be able to present that evidence and that
19 proof before we conclude the question of materiality.

20 I don't know how much of this is available,
21 how much of it exists. If it exists, I would like your
22 Honor to see it and to hear it.

23 This is my own request at this time.

24 MR. JOSSEN: Your Honor, first, with respect to
25 the subpoena which was served upon the Federal Bureau of

2 Investigation, a copy of which or the original of which
3 was just given to us at the recess, the Government at this
4 time moves to quash that subpoena for the following
5 reasons:

6 The Government submits that the records of the
7 Federal Bureau of Investigation are simply not relevant
8 to your determination of materiality, since the Federal
9 Bureau of Investigation's investigation itself has
10 no bearing on the direction of the grand jury's investigation.

11 THE COURT: Relative to any request for FBI
12 files and records encompassed within the four corners of
13 the subpoena which has been handed to me, I am prepared
14 to rule on the Government's application. I now speak of
15 FBI investigative reports.

16 MR. JOSSEN: Your Honor, I would suggest that the
17 entire subpoena would have to be quashed since the Federal
18 Bureau of Investigation does not have transcripts of grand
19 jury testimony in its possession.

20 THE COURT: I suppose they are not the duly auth-
21 orized custodian thereof, although they might have copies
22 of certain grand jury testimony. I really think that
23 request should be directed to the United States Attorney
24 who is present, and it may be done orally.

25 For that reason, I am prepared to rule on the

2 entire subpoena, although I am not ruling on the substance
3 of your request for grand jury minutes.

4 MR. PLATZMAN: I am sorry that I didn't see the
5 subpoena when it was prepared. May I get my glasses?

6 THE COURT: Yes.

7 (Pause)

8 MR. PLATZMAN: The subpoena includes not only the
9 documents of the grand jury, but also reports of inves-
10 tigations and copies of documents, whatever the FBI
11 does have, which relate to this investigation. That's
12 purely for the purpose of identification.

13 Without getting into the wording, meticulous
14 wording, of the subpoena itself, what the subpoena requests
15 is whatever the Bureau of Investigation has by way of
16 reports of investigation, copies of any documents that
17 they have with respect to anything that related to this
18 grand jury investigation. That's what we are after.

19 I would like some determination on its merits
20 from you. I am assuming your Honor is prepared to rule
21 on that.

22 THE COURT: The subpoena seeking FBI reports of
23 investigations and related documents in the possession of
24 the Bureau is quashed.

25 MR. PLATZMAN: I assume it's on the ground raised
by counsel, that it is not relevant to this hearing?

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THE COURT: I would suggest that not only on that ground but also I find the subpoena to be unduly broad and imprecise. When you ask for all records of a government agents, I think you go too far afield. I must suggest also that we are here to determine the subject of the grand jury investigation and whether the testimony which is alleged to have been false is material to the subject of the investigation, and I did not find the subpoena, which I suggest to be unduly broad, to be calculated to respond to that question.

Accordingly, the subpoena is in all respects quashed.

MR. PLATZMAN: I would like to suggest, if it please the Court, that the subpoena does refer, while broadly, however specifically, to the activities and testimony before the additional grand jury of August 22, 1972, and the investigation of the January, 1975, additional grand jury.

THE COURT: I see that. Why don't we address ourselves not to the subpoena at this point but to your request made of the United States attorney for the production of all minutes of both grand juries and we will hear the government on that.

MR. JOSSEN: May we have a moment, your Honor?

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2 (Pause)

3 MR. JOSSEN: Your Honor, it is the government's
4 position with respect to Mr. Platzman's request as
5 follows:

6 First, we believe that the government has
7 already established the question of materiality -- the
8 element of materiality beyond a reasonable doubt on the
9 basis of the showing in this hearing. I point out to
10 your Honor that the investigation is before the two
11 additional grand juries which are referred to in the
12 indictment were substantial investigations, they were
13 extremely long investigations.

14 Obviously, as your Honor knows, as counsel
15 should know, proceedings before the grand jury are
16 secret. The government feels that there is no basis to
17 turn over the grand jury transcripts of these two investi-
18 gations to the defense counsel.

19 We are prepared, however, if your Honor requests
20 us to do so, to turn them over to the Court for in camera
21 inspection for a determination whether -- that is to say,
22 whatever documents, whatever documents we do have in our
23 possession, to turn them over to the Court for in camera
24 inspection and your determination whether there is any
25 material in the transcripts which should be turned over to

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2 defense coun 1.

3 THE COURT: No, I would suggest that the manner
4 in which this should be approached is as follows, if
5 counsel for the defendant requests it:

6 I think if the government makes a prima facie
7 showing of materiality, it would be impossible for the
8 defendant by taking other materials and say "Well, the
9 grand jury also investigated thus and so and thus and so
10 and thus and so and therefore what was originally on its
11 face material is not material," I do not see how that
12 conclusion could be established, but in order to protect
13 the defendant, it might be appropriate to seal the minutes
14 of the two grand juries and in the event an application
15 is made on appeal which is directed to this issue, the
16 Court of Appeals could, if it saw fit, review the complete
17 minutes.

18 Would that be agreeable to the government?

19 MR. JOSSEN: Yes, with respect to such tran-
20 scripts that the government has in its possession.

21 MR. SCHWARTZ: In addition to the transcripts
22 we have in our possession, we will also communicate to
23 the grand jury reporters and ask them to seal their notes
24 so that everything will be kept in the state that it is
25 in now and we will undertake to so notify the contract as

1 GWJW 4

2 well as the court-based grand jury reporters.

3 THE COURT: What I want to do for the defendant
4 here in the event he wishes to pursue this matter on
5 appeal, I want to preserve for him material which could
6 be reviewed by the Court of Appeals. I have reached a
7 tentative conclusion that there is enough -- I will hear
8 more, whatever you want to present, and I don't see where
9 adding minutes to this is going to change that conclusion.

10 However, in the event counsel finds it appropriate
11 to review this matter on appeal, this particular issue of
12 materiality on appeal, and he wishes to have the record
13 available, I would think that the way to do it was to
14 have all of the record and have it sealed so that in the
15 event he wishes to raise the point, he may raise the point
16 to the Court of Appeals and they may choose to go on the
17 record already set forth here this afternoon or they may
18 choose to go further. I want them to be able to have the
19 balance of the transcript should they feel it necessary
20 for any reason to look further.

21 MR. PLATZMAN: May it please the Court, I
22 gather from your Honor's statement at the present time
23 that the ruling will be that anything further at this
24 point that I might present to either supplement or contra-
25 dict what they have presented would have no real effect

1 GWJW 5

2 on the question of materiality.

3 THE COURT: I think, frankly, having heard
4 what I have heard this afternoon, that they have established
5 that the questions which are the subject of the indictment,
6 Counts 1, 2, 3, 5, 6, 7 and 8, were on material matters.

7 There have been a number of things which have
8 been established. I can't see that going through all of
9 the minutes of these grand juries is going to change
10 my conclusion and therefore I am prepared to rule on the
11 subject.

12 However, because of the objection that you have
13 raised and the issues that you have presented, I want to
14 preserve your right to review in the Court of Appeals and
15 I have suggested doing it in the manner I have indicated.

16 MR. PLATZMAN: Hopefully I won't have to.

17 Let me continue, though. Outside of the
18 grand jury, I am going to try to rush this. Outside of
19 the question of the grand jury minutes, I am interested
20 in more than that. I realize that perhaps this subpoena
21 was a little too broad when I mentioned the investigation
22 of the two grand juries. I really want those portions
23 of the investigation that apply to Mr. Doulin and the
24 Monell case. So I would restrict it. Rather than serve
25 a new subpoena and then go through the same problem,

1 GWJW 6

2 I am assuming -- I would like to see your Honor determine
3 this on its merits rather than the wording of the subpoena
4 and I hope counsel will join me in this, and what I am
5 saying with respect to the FBI documentation has equal
6 application to whatever documentation that the United
7 States Attorney's office has outside of the grand jury
8 minutes such as reports of investigation, statements
9 made by witnesses, notes that they may have made, anything
10 connected with the two grand juries irrespective of which
11 United States Attorney it was, and with respect to the
12 Monell and the Doulin matters.

13 And I would like all of that information as
14 well. I am assuming that whatever information was avail-
15 able to the United States Attorney and the FBI would
16 probably be found in documentation and I need not call any
17 United States Attorney orally to determine that and that
18 whatever information they did have would be represented
19 in some form or another by some form of documentation.

20 I therefore would ask that we get really a
21 determination on the merits of this question rather than
22 my going back to the office now and serving another subpoena
23 for which there would be no purpose.

24 THE COURT: I am prepared to do the following:

25 I think we should mark your subpoena as a

1
2 Court's Exhibit and then I am ruling formally that the
3 motion to quash the subpoena is granted.

4 Regarding the grand jury testimony, I am
5 directing the United States Attorney to assemble and seal
6 all of the minutes of both grand juries on all proceed-
7 ings up to this date and those sealed materials shall be
8 presented to the Court of Appeals along with the record
9 in this case in the event (a) there is an appeal and
10 (b) one of the points of your appeal is on the issue
11 of materiality.

12 MR. PLATZMAN: What about the question of
13 the other documents I have asked for? Mr. Schwartz
14 said I don't have to serve any subpoenas on him.

15 I would make a request and I ask there be a
16 determination of that.

17 MR. SCHWARTZ: I didn't say that.

18 THE COURT: I will deny your application
19 insofar as it relates to any material beyond the minutes
20 of the two grand juries.

21 MR. PLATZMAN: And so that I don't have to
22 serve another subpoena?

23 THE COURT: I would suggest that you have
24 been deemed to have made a request of the custodian of
25 the grand jury file, that is, the United States Attorney,

1 GWJW 8

2 and I have ruled on your oral request made this afternoon
3 as I have just indicated.

4 MR. PLATZMAN: Just so I am not mistaken about
5 this, this applies to the grand jury minutes that your
6 Honor referred to, to the records that I have asked --

7 THE COURT: The request for records of the
8 FBI which was in subpoena form, that subpoena is quashed.
9 Those records I do not believe relevant on this materiality
10 question.

11 What I think is possibly relevant are the
12 grand jury minutes so that it could be determined from
13 statements made by the prosecutor and other testimony of
14 witnesses that there might be something that was misleading
15 about the presentation made to me.

16 But because you don't, as you obviously cannot,
17 have any grounds for asserting that this was misleading,
18 I am going to take the course at this juncture of directing
19 the United States Attorney to assemble all the minutes
20 of both grand juries on proceedings up to this date,
21 November 12, 1975, and sealing them so that in the event
22 you wish to raise any questions on materiality you can
23 address your question to the Court of Appeals and those
24 minutes will be available to the Court of Appeals for its
25 review.

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2 MR. PLATZMAN: How about the balance of that
3 with respect to the United States Attorney, to wit, the
4 documentation they have in their office outside of that?

5 Is there the same ruling?

6 THE COURT: The material beyond the grand
7 jury minutes I would group with the FBI files and I
8 deem that you have made a request for material outside
9 of the grand jury minutes and that request is in all
10 respects denied.

11 MR. SCHWARTZ: Two things. One is almost a
12 housekeeping matter.

13 Can you modify your order with respect to
14 sealing the grand jury notes and transcripts of the
15 reporter, modify it to the extent that we may continue
16 to transcribe it and reseal as it is necessary for other
17 trials and other proceedings in this courthouse?

18 THE COURT: Yes. What I want is merely to
19 preserve these so that they can be used and so that they
20 will not be lost or destroyed.

21 MR. SCHWARTZ: Just one other point. I really
22 haven't made any point like this before and I don't think
23 it has been necessary, but I do want it on the necessary.

24 I think it was a little unfair to make all of
25 these requests and to serve this subpoena at the Eleventh

GWJW10

Hour when materiality has been an issue in this case and raised by the defendant from its first motions.

THE COURT: Counsel has done this because he must do what he can to protect the interests of his client and although I recognize that the subpoena was served at the Eleventh Hour and was burdensome, I have no quashed it and I will suggest that by my ruling I have preserved a record so that the Court of Appeals will have sufficient material from which it can determine whether my ruling, which I will make shortly on the question of materiality is correct.

MR. SCHWARTZ: Thank you, your Honor.

Off the record.

(Discussion held off the record)

take

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2 (In open court)

3 THE COURT: Gentlemen, at this juncture --
4 it is going on 4:30 -- we will recess and I would request
5 counsel to be present tomorrow morning at 9:30 when we
6 will resume and then the jury will be in at 10:00.

7 Court is adjourned.

8 (An adjournment was taken to November
9 13, 1975 at 9:30 a.m.)

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2 UNITED STATES OF AMERICA

3 v.

75 Crim. 630

4 WILLIAM E. DOULIN

5 November 13, 1975
6 9:45 a.m.

7 (Trial resumed)

8 (In open court; jury not present)

9 (Court Exhibit No. 9 was marked for identification.)

10 THE COURT: Where is Mr. Doulin?

11 MR. PLATZMAN: He stepped out for a moment. We
12 have other matters, preliminary matters.

13 THE COURT: Proceed with preliminaries which I
14 suggest are of the type that can properly be conducted
15 outside the presence of the defendant.

16 MR. PLATZMAN: I believe, your Honor, it was
17 called for 10:00 o'clock, but we were supposed to be here
18 at 9:30.

19 THE COURT: That's right. There were several
20 matters open. We had not completed or closed the
21 materiality hearing. The Government had wanted to search
22 for something. And then I believe it was the Government's
23 intention to make a presentation relative to the
24 portions of the Weissman grand jury minutes which they wish
25 to offer. If there is anything further, of course, we

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2 will take that also.

3 It would seem to me that we can deal with either
4 subject at this time.

5 MR. JOSSEN: Your Honor, the first matter of
6 business, continuing with the presentation on materiality,
7 the Government at this time --

8 THE COURT: If it's to be materiality, let's
9 wait just a moment until Mr. Doulin re-enters the courtroom.

10 I think the other matter might be taken up
11 outside of his presence, but on the materiality we'll just
12 wait a moment.

13 (Discussion off the record)

14 THE COURT: I note that Mr. Doulin is now
15 present. You may proceed, Mr. Jossen.

16 MR. JOSSEN: Your Honor, at this time, in
17 connection with the question of materiality, the Government
18 offers into evidence Court Exhibit No. 10 for identification,
19 which is the June 6, 1973 grand jury testimony of
20 Humbert Michael Cappelli.

21 THE COURT: Please show it to counsel.

22 MR. PLATZMAN: I have no objection to authenticity.

23 On the question of materiality, no question,
24 no objection.

25 THE COURT: This, of course, is offered and received

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2 as a Court's exhibit. It is not to be read, shown
3 or mentioned to the jury without subsequent leave of the
4 Court.

5 It is received as a Court's exhibit for the
6 purpose of this hearing only.

7 (Court's Exhibit No. 10 was received in evidence.)

8 MR. PLATZMAN: I assume I will get a copy. I
9 didn't get any of the copies of what was offered yesterday.

10 MR. JOSSEN: Your Honor, I think it is not the
11 Government's practice in a case like this to give copies
12 of grand jury testimony. The grand jury testimony is,
13 of course, offered solely for the purpose of the materiality
14 question and it is for the Court's examination.

15 THE COURT: Of course, counsel should have the
16 opportunity to examine it, and I do note that each of the
17 exhibits yesterday was handed to counsel for his perusal,
18 albeit his perusal was a brief one.

19 MR. PLATZMAN: From a practical point of view,
20 it was handed to me at the side bar and one after another,
21 and I couldn't possibly read it no matter what the
22 circumstances were.

23 Also, a number of exhibits were introduced.
24 I think they consist of various indictments. Counsel
25 said I would get a copy.

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2 THE COURT: Those are matters of public record
3 and he did indicate you would receive those.

4 MR. JOSSEN: With respect to the Court exhibits
5 they continue to be available for Mr. Platzman's
6 examination.

7 With respect to Court's Exhibit 10, the
8 Government would like to direct the Court's attention to
9 Pages 7 and 11 of the transcript.

10 THE COURT: Mr. Platzman, come up with me to the
11 side bar and we will look at that together.

12 May I inquire who Mr. Cappelli is, or at least
13 was, when he appeared before the grand jury in 1973?

14 MR. SCHWARTZ: Your Honor, he was at that time
15 former chief of police of the Newburgh police department,
16 having been convicted of numerous crimes in state court.

17 (The Court and Mr. Platzman examine document at
18 the side bar.)

19 THE COURT: I have had an opportunity to peruse
20 the pertinent pages together with Mr. Platzman.

21 MR. JOSSEN: Your Honor, as a final matter on
22 the question of materiality, as the Government indicated
23 at the close of yesterday's proceedings, we wanted to
24 check the grand jury testimony of Mary Handler, which was
25 referred to by the grand juror, Mr. Beer, who testified

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2 here yesterday, and so that the record is absolutely
3 clear, we are going to offer at this time Court's
4 Exhibit 11 for identification in this hearing, which is
5 the sworn grand jury testimony of Mary Handler dated
6 June 6, 1973, which indicates that Mr. Beer's recollection
7 as to some of the testimony of Miss Handler was not
8 correct, particularly with respect to alleged payoffs,
9 and we offer this exhibit at this time so that the record
10 will be clear when the Court makes its ruling.

11 MR. PLATZMAN: Would your HONor excuse me for a
12 few moments so I can read this?

13 THE COURT: Yes.

14 (Pause)

15 (Continued on next page)

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2 MR. PLATZMAN: I have no objection, your
3 Honor.

4 MR. JOSSEN: The government directs the
5 Court's attention to pages 30 to 33 in Court Exhibit 11.
6 I'm not sure if the record is clear that we have offered
7 that into evidence for this hearing.

8 THE COURT: It will be received, that is 11,
9 but only for the purpose of this hearing, and it is not
10 to be referred to in any way in the presence of the jury
11 without further leave of the Court.

12 Is that agreeable, gentlemen?

13 MR. PLATZMAN: 30 to 33.

x
14 (Court's Exhibit 11 marked)

15 THE COURT: It is agreed that where reference
16 is made to Mr. Dolin, as it was in the prior exhibit,
17 Court's Exhibit 10 as well, that reference is intended to
18 mean Mr. Doulin?

19 MR. JOSSEN: Yes, your Honor.

20 MR. PLATZMAN: Yes, your Honor.

21 THE COURT: Very well.

22 I have reviewed those several pages of Court's
23 Exhibit 11.

24 MR. JOSSEN: The government at this time,
25 your Honor, had one application, and that is the government

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would request that the Court direct that the parties in this matter not refer to the various grand jury testimony which has been offered in this proceeding for a question of materiality except as to those aspects which may already be a matter of public record.

MR. PLATZMAN: I'm sorry, I didn't hear that.

THE COURT: Would you repeat that, please.
(Record read)

MR. PLATZMAN: Certainly.

MR. JOSSEN: The government has nothing further, your Honor.

THE COURT: The application is granted.

MR. JOSSEN: Thank you, your Honor.
The government has nothing further on materiality.

THE COURT: Mr. Platzman.

MR. PLATZMAN: Nothing further in view of your Honor's ruling yesterday. ✓

As far as I am concerned, there isn't anything further other than what I wanted yesterday.

THE COURT: Very well.

The Court is prepared to render a decision on the question of materiality.

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2 The matters about which the defendant testified
3 as set forth in Counts 1, 2 and 3 of the indictment
4 are found by the Court to have been material to the
5 issue of whether or not any elected public officials or
6 enforcement officials were receiving bribes in connection
7 with various activities, including gambling, which was a
8 proper subject of investigation and was, in fact, being
9 investigated by the August 22, 1972 additional grand jury.

10 In addition, the Court finds that the matters
11 about which the defendant testified as set forth in
12 Counts 5, 6, 7 and 8 of the indictment were material to
13 the issues of whether or not any public officials were
14 corrupted or violated their public trust and whether or
15 not some influence had been used to change the sentence
16 in the case of the People of the State of New York against
17 Richard Monell in County Court, Orange County, matters
18 which were the subject of investigation by the January
19 21, 1975 additional grand jury. That is the decision
20 of the Court.

21 MR. PLATZMAN: I note my objection, may it
22 please the Court.

23 THE COURT: You have noted your objection
24 and I have heretofore directed the United States Attorney
25 at the earliest appropriate time to gather up and seal

2 all the minutes of both of those grand juries or copies
3 of those minutes from their commencement up to this
4 date so that they will be available in the event the
5 matter of materiality is presented to the Court of Appeals.

6 MR. JOSSEN: Your Honor, is the government
7 correct in assuming that your Honor's finding is beyond
8 a reasonable doubt on those issues?

9 THE COURT: Yes. The standard which I am
10 required to follow is whether the government has demonstrated
11 the matter beyond a reasonable doubt.

12 In reaching the ultimate conclusion that I
13 did, I relied on Court's Exhibits 1 through 10 and
14 took note of Court's Exhibit 11.

15 After having reviewed the exhibits and/or
16 the pertinent portions thereof which have been previously
17 indicated in the record, I found that the government had
18 demonstrated beyond a reasonable doubt that the matters
19 about which the defendant testified, as set forth in the
20 seven counts of the indictment to which reference was
21 heretofore made, were material to issues which were properly
22 before the grand juries and which the two grand juries
23 were addressing their attention.

24 MR. JOSSEN: Thank you, your Honor.

25 THE COURT: There is one further matter which

2 I suggest we take up in the robing room briefly and then
3 we will bring in the jury.

4 (In the robing room)

5 THE COURT: Let the record reflect that we
6 have adjourned to the robing room and that counsel as
7 well as the defendant are present.

8 Mr. Jossen.

9 MR. JOSSEN: Your Honor, at this time the
10 government would offer Government's Exhibit 26-A for
11 identification, which is a stipulation with respect to
12 the authenticity and accuracy of the grand jury testimony
13 of Abraham Weissman.

14 The government would also --

15 THE COURT: I note that that exhibit is a
16 stipulation, and I would assume there is no objection to
17 this exhibit.

18 MR. PLATZMAN: No objection.

19 THE COURT: 26-A is received.

20 (Government's Exhibit 26-A received
21 in evidence)

22 MR. JOSSEN: Your Honor, at this time the
23 government also would offer what has previously been marked
24 as Court's Exhibit 7 in evidence, the materiality proceed-
25 ing, and what we have now marked as Government's Exhibit 26

2 for identification, which is the transcript of the grand
3 jury testimony of Abraham J. Weissman.

4 THE COURT: That is the jury transcript?

5 MR. JOSSEN: That is correct, your Honor.

6 It is the transcript for Mr. Weissman's testimony on
7 three different dates.

8 THE COURT: You may proceed.

9 MR. JOSSEN: Your Honor, at this time the
10 government formally offers into evidence --

11 MR. PLATZMAN: Of course the objection I
12 raised with respect to introduction of Mr. Weissman's
13 testimony is still on the record.

14 THE COURT: I would suggest that when counsel
15 finishes his presentation, you can put your objection on
16 the record again.

17 MR. JOSSEN: At this time the government
18 offers into evidence, your Honor, the following excerpts
19 from the grand jury testimony of Abraham J. Weissman --

20 THE COURT: If you will just wait a moment,
21 I will follow that.

22 (Pause)

23 MR. JOSSEN: These excerpts are from the
24 June 11, 1975 testimony of Mr. Weissman.

25 The government offers pages 1 through 24,

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2 line 4.

3 MR. PLATZMAN: May I have this list and
4 then get my copy of Mr. Weissman's testimony so I can read
5 along?

6 MR. JOSSEN: Certainly.

7 MR. PLATZMAN: Let me have the list.
8 Would you excuse me for one moment, your
9 Honor?

10 THE COURT: Yes.

11 MR. PLATZMAN: I didn't know you were going
12 to read from the testimony.

13 (Pause)

14 MR. JOSSEN: The government also offers
15 page 35, lines 10 through 20.

16 MR. PLATZMAN: What were the first ones?
17 I'm sorry.

18 MR. JOSSEN: Page 1 through page 24, line 4.

19 MR. PLATZMAN: All right.

20 MR. JOSSEN: Page 57, line 11 through 63,
21 line 7.

22 Pages 65, line 13 through pages 67, line 27.
23 Finally, your Honor, page 69, lines 9 through
24 20.

25 In substance, your Honor, the grand jury

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2 testimony which the government has offered is the
3 testimony of Mr. Weissman with respect to a telephone
4 call which he testified he received from the defendant
5 prior to the resentencing of Mr. Monell in which Mr.
6 Weissman testified Mr. Doulin asked him to go into court
7 and see if he could recommend probation for Mr. Monell.

8 The testimony which we have offered, your
9 Honor, also indicates that at the time of giving this
10 testimony before the grand jury Mr. Weissman was admitting
11 to the fact that he had previously committed perjury before
12 the same grand jury with respect to the matters about
13 which he was testifying at that time.

14 THE COURT: So that this testimony would be
15 against Mr. Weissman's penal interest, is that correct?

16 MR. JOSSEN: That is correct, your Honor.
17 That is the government's contention.

18 It is also clear, your Honor, that Mr. Weissman
19 is unavailable as a witness by reason of death.

20 THE COURT: There is no issue on that, is
21 there, Mr. Platzman?

22 MR. PLATZMAN: No, that was conceded earlier
23 in the trial, your Honor.

24 THE COURT: All right.

25 MR. JOSSEN: Accordingly, your Honor, the

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2 government submits that this testimony is admissible
3 under an explicit exception to the hearsay rules in the
4 Federal Rules of Evidence which requires the unavailability
5 of a witness and a declaration against his interest, whether
6 it be penal or pecuniary.

7 Your Honor, at this time the government would
8 also like make a court exhibit the original or a copy of
9 the government's memorandum in support of the admissibility
10 of his testimony, a copy of which has been supplied to
11 the Court and previously supplied to Mr. Platzman.

12 THE COURT: Very well.

13 We will call this Court's Exhibit 12.

14 (Court's Exhibit 12 marked)

15 MR. JOSSEN: During pre-trial proceedings
16 in this matter reference was made to the fact that the
17 government intended to make this particular offer of
18 evidence at trial so that the defendant has been fully
19 familiar with the government's intention to do so as has
20 the Court. In fact, at that time the Court indicated
21 its concern with the question of whether the introduction
22 of such evidence would violate Mr. Doulin's Sixth Amend-
23 ment right, the confrontation clause of the Constitution.

24 Your Honor, I would just address myself
25 briefly to the confrontation clause question --

2 THE COURT: Your brief was very thorough
3 on the subject, and I would suggest I have read it care-
4 fully and considered it and have read and have before me,
5 as a matter of fact here in the robing room, the Supreme
6 Court opinion in the Dutton case, which I would suggest
7 would be an important basis for your argument.

8 So I would suggest I have reviewed the law
9 as it has been presented and I don't know that it is
10 necessary to review it inasmuch as we have marked the
11 government's memorandum as Court's Exhibit 12 for
12 identification.

13 MR. JOSSEN: Fine.

14 MR. PLATZMAN: Before counsel continues with
15 his argument, if the Court would permit me, I do want to
16 make some correction to counsel's characterization of
17 Mr. Weissman's testimony.

18 My recollection, if we are summarizing,
19 isn't just that. My recollection was he didn't say it was
20 a telephone call. He said he spoke to him. I don't know
21 how or what. I don't think it did appear. At least
22 the witness wasn't certain. I may have been wrong in
23 my recollection of it. This is my offhand recollection
24 of it.

25 Secondly, the conversation just wasn't that

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2 Mr. Doulin had asked him to go to court to get probation
3 for Mr. Monell, but I believe he asked some level of
4 leniency, and that Mr. Weissman's response was not a promise
5 to do so but that he would try to see what can be done
6 and he would review it and justify that he would do what
7 he could, something to that effect. It wasn't the
8 partial conversation --

9 THE COURT: I will take issue with you.
10 Reading from an answer on the bottom of page 19, let me
11 give you the question and the answer. The lines are not
12 numbered. I am reading five lines up from the bottom
13 of page 19 of the first transcript.

14 "Q Mr. Weissman, would you tell the ladies and
15 gentlemen of the jury in your best -- to your best
16 recollection -- what was said to you by Mr. Doulin and
17 what you said to Mr. Doulin in that conversation?

18 "A Mr. Doulin called me on the telephone and he
19 says 'Jerry' -- you will pardon the language -- 'Jerry,
20 fuck that, the sentence in the Monell case.' So I said
21 to him 'Bill, in what way'? And he related to me that
22 Jerry either promised or told him that he was going to
23 recommend probation and he forgot about it. So I said to
24 him 'Bill, there are seven or eight assistants in the
25 office. Why am I being called?' And he says, 'You are

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2 being called because Jerry has assigned you to the case.'

3 Then he said to me, 'I would appreciate it if you could

4 see fit to recommend probation for Monell.' I says,

5 'Bill, when I get to the office, I'll check the probation

6 report, I'll check the file. If it warrants it, I will

7 recommend probation.' And that was the entire conversa-

8 tion."

9 I have completed reading from that portion

10 of the transcript, and I would suggest that is the way

11 the testimony went in.

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MR. JOSSEN: Your Honor has already referred to the Dutton v. Evans decision and the Government suggests in our memorandum that this decision indicates the confrontation here is far from clear, far from settled.

Presented here before your Honor is a unique evidentiary and constitutional law question. We think the facts are ripe in this case for your Honor to make a decision which would admit this particular evidence.

The Dutton-Pirali opinion suggests, as is clear from other cases, that the confrontation clause is not violated where hearsay evidence is introduced, even though the declarant is not present in court to be cross-examined. That is a situation that occurs quite frequently in federal court, particularly in a case where there is a conspiracy, where a co-conspirator's declarations are admitted against a defendant, even though the co-conspirator is not actually present and testifying.

The Dutton case extends the line of co-conspirators' declarations in reaching the constitutional question to a situation where a statement is made not even in furtherance of the conspiracy, but during the concealment phase of the conspiracy.

The rationale of Dutton is that there are certain indicia of reliability about the particular type of hearsay

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2 evidence which is sought to be introduced, which suggests
3 that that evidence can be placed before a jury, even
4 though the declarant is not present in court to testify.

5 The Government submits that that standard is
6 amply satisfied here where the testimony which we seek to
7 introduce was made under oath, and was made at a time
8 it was clearly against the witness' personal interest
9 to make such statements, a standard itself which the
10 Supreme Court has said in Dutton is the type of indicia
11 which is required to find that that evidence can be
12 placed before a jury for its consideration.

13 Now, there is also a reference to whether the
14 testimony or evidence is crucial or devastating. The
15 Government's position with respect to that issue is that,
16 first, Dutton has not be followed in that respect to
17 require a finding that the evidence is not crucial to the
18 Government or devastating to the defense before it can be
19 admitted, and we cite the Second Circuit decision in Puco
20 and D'Amato which uphold that point.

21 If your Honor were to find that you have to
22 consider whether it is crucial or devastating, we suggest
23 that it is neither in this case. It is important evidence
24 to the Government to put before the jury, but there is
25 certainly sufficient circumstantial evidence before this

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2 jury that Mr. Doulin interceded on behalf of Mr. Monell
3 and that Mr. Weissman was in fact the person with whom
4 he interceded.

5 THE COURT: But this is the only direct evidence
6 that I can think of. You show me any other direct
7 evidence.

8 There is one statement made by the defendant to
9 Mr. Shapiro, and that's certainly damaging to the
10 defendant, but I can't think of any other direct evidence.
11 The rest of your case is basically circumstantial.

12 This is and does represent the sole direct link
13 between the deceased witness Weissman and the defendant.
14 If I am in error, I would appreciate it if you would
15 correct me at this time.

16 MR. JOSSEN: Your Honor is correct that it is
17 the sole direct link. However, we believe that the cir-
18 cumstantial evidence is extremely strong in this case,
19 and evidence which the jury would be entitled to convict
20 on alone.

21 We further argue, your Honor, that as a practical
22 matter, and this is what we are really suggesting to your
23 Honor as the way this matter should be approached, the
24 confrontation clause requires consideration of fairness.
25 We submit that, as a practical matter, the Government is

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2 severely injured by the untimely death of Mr. Weissman.

3 THE COURT: Mr. Weissman, if my recollection is
4 correct, was indicted, I believe it was in June, and was
5 an ill man and died, if my recollection is correct, during
6 the summer. Mr. Doulin had already been indicted.

7 I take issue with you in only one particular.
8 I suppose an application could have been made before me in
9 view of Mr. Weissman's precarious health to take his
10 deposition where he would have been subject to cross-
11 examination and to preserve his testimony for use at
12 this trial. I am not blaming the Government, because I
13 recognize from my own relationship to both of the cases,
14 since they were both assigned to me, that Mr. Weissman was
15 a very ill man almost from the time of the indictment,
16 but I do mention this as a factor, and also to indicate
17 to you that there is a means available whereby the testimony
18 of a critically ill witness can be preserved and utilized
19 at trial.

20 MR. JOSSEN: That may be, your Honor. All we
21 would respond to that is neither side gained from Mr.
22 Weissman's unavailability. The Government would suggest
23 it would have been far better if Mr. Weissman was here at
24 trial.

25 What we have suggested to your Honor is that this

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2 testimony go in with a cautionary or limiting instruction
3 which we have put in our requests to charge.

4 Obviously, the defendant would not be entitled
5 to that if Mr. Weissman were alive.

6 Further, your Honor, with respect to what
7 actual substantive right of cross-examination has been
8 denied or would be denied to the defendant, we submit
9 that the basic objectives of any cross-examination are
10 more than met here. The defendant has available the
11 witness' own statement that he lied, that he lied under
12 oath. The defendant has available prior inconsistent
13 statements of the witness. All of these could be placed
14 before the jury, as well as any other extrinsic evidence,
15 to impeach his motive, bias, whatever.

16 In fact, the only thing that is lost here is
17 demeanor. Demeanor is something which injures the
18 Government more than the defendant in view of the fact
19 that the defendant has available evidence that Mr. Weissman
20 committed perjury under oath.

21 So that, as a practical matter, we suggest that
22 the Government is severely injured if this testimony does
23 not come in. It is still injured even if it does come in,
24 as contrasted with having Mr. Weissman present at trial.

25 We think this is a close question and we believe

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2 that your Honor is entitled to consider in this context
3 the fact that the Government has no right to seek a review
4 of this determination should your Honor exclude the
5 evidence, or should there be an acquittal.

6 THE COURT: Thank you, Mr. Jossen.

7 Off the record.

8 (Discussion off the record)

9 MR. PLATZMAN: I will be very brief, if it please
10 the Court.

11 We feel very strongly that the revised rules have
12 not changed the basic principles of law, and particularly
13 have not changed the requirement that a defendant have
14 the opportunity of the Sixth Amendment, and we think that
15 the admission of this document would be violative of
16 his confrontation right, the right to cross-examine.
17 The new rules do not extend to a set of circumstances
18 such as exist here.

19 I have submitted a memorandum, a short one. I
20 don't think that any elaboration of any extent, as Mr.
21 Jossen has indicated to the Court, changes that basic
22 question, and I think that the exhibit should be excluded.

23 THE COURT: Thank you. The Court is prepared to
24 rule.

25 The Government relies at least in part on

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2 Rule 804(b)(3) of the New Federal Rules of Evidence.

3 The Court has taken note of the conference report on
4 this section. In connection with the conflicting versions
5 of the rules of evidence which were before the conference
6 committee relative to Rule 804(b)(3), the conference
7 adopted the Senate amendment. The conference committee
8 indicated in its report that:

9 "The conferees intend to include within the
10 purview of this rule statements subjecting a person to
11 civil liability and statements rendering claims invalid.
12 The conferees agree to delete the provision requiring
13 statements by a co-defendant thereby reflecting the general
14 approach in the rules of evidence to avoid attempting
15 to codify constitutional evidentiary principles."

16 I would suggest that that also means to the Court
17 that this was not an attempt to do away with the confrontation
18 rights established in the Constitution and developed by
19 the Courts.

20 I will also note that the rule should be considered
21 in light of the fact that it would refer as well to
22 civil matters where there is no confrontation problem.

23 I have reviewed the Dutton case most carefully
24 and suggest that it stand for the proposition that
25 evidence of the kind presented here by the Government

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2 should be considered by the Court on a case-by-case
3 basis. I agree that there is no hard and fast rule
4 which the Court is required to follow, but when I view
5 the evidence presented here in the context of this case,
6 I find it to be "crucial" because it represents the
7 only direct evidence linking the defendant to the deceased,
8 Abraham Weissman. We do have an admission to Norman
9 Shapiro by the defendant which has been placed before the
10 jury, but I suggest that the testimony which I have
11 reviewed here, just taking the one question and answer
12 from Pages 19 and 20, which I read, is of crucial
13 importance. I wouldn't say that it is "devastating,"
14 but I would suggest that it's sufficient if it is crucial.

15 In reviewing the law, I noted and would rely in
16 part upon the decision of the United States Court of
17 Appeals in United States of America v. Paul R. Jones,
18 402 F.2d 351 (1968), a decision on remand from the
19 Supreme Court.

20 The Supreme Court directed a remand in a Bruton
21 situation, a conviction there viewed in the light of
22 Bruton, and there the Government sought to admit against
23 one defendant his grand jury testimony. The Court charged
24 the jury that the grand jury testimony could not be
25 considered in determining the guilt or innocence of a

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2 co-defendant. The Court concluded that there was more
3 than a fair likelihood that the jury was unable to
4 perform the feat enjoined upon it by the Court's instructions
5 and went on with the following language at Pages 851
6 and 852:

7 "Since it was crucial testimony outside of court
8 not subject to cross-examination on behalf of Jones
9 (cf. Pointer v. State of Texas, 380 U.S. 400, 85 S.Ct.
10 1065, 13 L.Ed. 2d 923 (1965)), it comes under the
11 interdiction of Bruton, made applicable retroactively by
12 Roberts v. Russell, 392 U.S. 293, 88 S.Ct. 1921,
13 20 L.Ed. 2d 1100 (1968)."

14 Although the Court recognizes that I do not have a
15 Burton case in the sense of there being two defendants
16 here on trial, I do have a situation where there is a
17 definite parallel between the charges once separately
18 lodged against Mr. Weissman and the defendant, and here we
19 have Mr. Weissman's statements in the grand jury against
20 his personal interest, exceedingly, but not subject to
21 cross-examination, being introduced, or the Government
22 seeks to introduce these statements against the defendant
23 Doulin.

24 The defendant Doulin was had no opportunity to
25 cross-examine, and since the Court finds that the testimony

1 would be crucial in the case on trial, I have concluded,
2 following the reasoning I have mentioned in relying
3 finally on Young v. U.S.A., 406 Fed.2d 960, D.C. Circuit
4 (1968), petition for rehearing denied, where in Footnote 2
5 the point is again made:
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7 "Not having been subject to cross-examination,
8 the testimony of Curry" -- an absent witness there --
9 "before the grand jury would not otherwise have been
10 admissible under the circumstances appearing here," with
11 cases cited.

12 For all of the reasons that I have given, and
13 based on my conclusion that this is crucial testimony
14 in the context of this case, the Government's application
15 to read to the jury the selected portions of the grand
16 jury testimony of Abraham Weissman is denied, and the
17 defendant's objection to the admissibility of this
18 testimony is granted.

19 I would suggest that circumstances might arise
20 during the presentation of the defendant's case which
21 would cause the Government to seek to reoffer this material
22 as rebuttal evidence, and I would consider the matter once
23 again at that time in light of the case as it has developed.
24 So I just leave that open for consideration.

25 Is there anything further, gentlemen?

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2 MR. PLATZMAN: No, your HONOR. Thank you.

3 MR. JOSSEN: We have one other point, your
4 HONOR, before bringing in the jury. Perhaps it will
5 save time.

6 We anticipate that there will be a number of
7 character witnesses called during the defendant's case.
8 The Government proposes to examine some of the character
9 witnesses in accordance with the rules of evidence
10 by asking certain questions about testimony which is
11 a matter of public record and which concerns alleged
12 other prior acts of misconduct on the part of Mr. Doulin.

13 THE COURT: Prefacing it with "Have you heard"?

14 MR. JOSSEN: In an appropriate case, or
15 with "Do you know" in an appropriate case.

16 MR. PLATZMAN: When you say a matter of public
17 record, what kind of testimony are you referring to?

18 MR. JOSSEN: I refer to the testimony of the
19 witness Humbert Cappelli in the trial of United States v.
20 Quentin Wendell Skipwith, which was held on March 11,
21 1975, at Page 360 of the transcript, which I will now show
22 to counsel at this point and then to the Court.

23 (Continued on next page)
24
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2 THE COURT: I suggest that if this was in this
3 court, in a case on trial, and the minutes were not
4 sealed, this would be proper.

5 (Pause)

6 MR. PLATZMAN: Line 16, is that what you are
7 referring to?

8 MR. JOSSEN: Yes, that is correct.

9 MR. PLATZMAN: I object very strenuously to
10 this type of testimony. This was hearsay in that trial
11 and it was never established. On the contrary, it was
12 my understanding that it was completely discredited. If
13 we are going to get into another trial about the honesty
14 of this witness, I think we are going to be going way
15 off. I don't mind if he could ask him whether he heard
16 anything, but without specifically referring to testimony
17 of a separate witness who himself was under attack and
18 was looking for a way out --

19 MR. JOSSEN: Your Honor, I believe that the
20 case law is quite clear that when defendant places his
21 character in issue by calling witnesses, this is proper
22 inquiry on the part of the government.

23 I would also add there is another reference
24 in another trial, the trial of Alan Handler, which took
25 place in this courthouse in 1973, November, the testimony

1 gwjw 2

2 of a witness by the name of Augustus Smrek, with respect
3 to an allegation that he had heard that Mr. Doulin was
4 receiving \$600 to \$700 a week for a gambling payoff.
5 We would also think that that is fair cross examination
6 of character witnesses.

7 THE COURT: I know you will object, counsel,
8 but this has been a subject of review before, and my
9 recollection is that the leading case is a Supreme Court
10 decision, United States versus Michaelson.

11 MR. PLATZMAN: However, I don't think under
12 these circumstances that the subject matter should be
13 referred to in the jury particularly if the witness says,
14 no, he didn't hear of anything like that.

15 THE COURT: If he is asked the question
16 and he says, no, it can't be utilized further. That is
17 the end of it as far as I understand the law.

18 MR. PLATZMAN: Except that I don't want
19 counsel reading from something that would look very official
20 so that by this means, devious means, get this before the
21 jury, even though it doesn't belong before the jury as
22 a fact.

23 MR. JOSSEN: The form in which the government
24 would ask it would simply be, have you heard there has
25 been sworn testimony in this courthouse to the following

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2 effect and his statement of the testimony.

3 THE COURT: If it is the fact and the govern-
4 ment has it, they can ask the question in that form.
5 This has been gone into in a number of cases.

6 MR. PLATZMAN: I would object strenuously
7 that if reference is made to sworn testimony in this
8 courthouse, this would be highly prejudicial. I think
9 he can ask him as to the fact and he does not have to
10 characterize it. I think the characterization itself
11 would be a method by indirection of establishing something
12 before this jury which can't be established in any other
13 way.

14 MR. JOSSEN: The very nature of character
15 witnesses is what he has heard and that is proper inquiry
16 in that form.

17 MR. PLATZMAN: You can ask him if he's heard
18 that fact. If the character witness says, no, that
19 would end it.

20 I don't think in the process of doing so by
21 indirection you can characterize it in such a way that
22 you would be indicating to the jury that it has real
23 validity because it must have been sworn testimony.

24 THE COURT: I would suggest that the government
25 ask the question in a proper form.

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2 Needless to say, if there is a negative
3 answer, I am prepared to instruct the jury at that time
4 that questions are not evidence.

5 MR. PLATZMAN: That is right. We also are
6 aware that every member of that jury is pretty human
7 and the question, if couched in that language, would be
8 highly prejudicial.

9 THE COURT: The government I know will con-
10 sider the form of its question very carefully before the
11 question is asked.

12 Let us return to the courtroom. I have
13 instructed that the jury be brought in. I understand that
14 very shortly the government will rest.

15 After the government has rested, we are
16 going to excuse the jury again for a few minutes while we
17 hear motions.

18 (In open court - jury present)

19 THE COURT: Good morning, ladies and
20 gentlemen.

21 We have been at work since you left us yester-
22 day, except for the lunch hour, and we have completed
23 the major portion of what we will be doing outside of your
24 presence.

25 From what I understand, you are going to be

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2 here now for just a few moments, and then --

3 MR. PLATZMAN: Excuse me. A prospective
4 witness has just walked in.

5 THE COURT: Yes. I would ask him to please
6 go into the witness room.

7 (Pause)

8 THE COURT: Thank you.

9 MR. PLATZMAN: Thank you.

10 THE COURT: As I say, I have been going over
11 this matter with counsel, so I pretty much know where we
12 stand.

13 You are going to be excused again after
14 just a few minutes here. We will then have another
15 legal matter to take up and then you will be returning
16 to the courtroom for what will be I believe a fairly
17 full day.

18 Mr. Jossen.

19 MR. JOSSEN: Your Honor, the first matter of
20 business, the government at this time withdraws its offer
21 of Government's Exhibit 10-A, 10 and 11 for identification.

22 THE COURT: I will mark the record accordingly.
23 Very well.

24 MR. JOSSEN: Second, your Honor, I understand
25 that it has been stipulated that the August 22, 1972

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2 additional grand jury and the January 21, 1975 additional
✓ 3 grand jury were both duly impaneled grand juries; is that
4 correct?

5 MR. PLATZMAN: That's correct.

6 THE COURT: Very well.

7 That is a matter that you will accept as an
8 agreed fact, ladies and gentlemen, when, as and if you
9 come to deliberate on this case, that Mr. Doulin did, in
10 fact, appear on two occasions before two duly constituted
11 grand juries in this district.

12 MR. JOSSEN: Third, your Honor, at this time
13 the government requests that all testimony which was taken
14 subject to connection be ruled connected up at this
15 point.

16 THE COURT: I have considered that matter, and
17 in the light of all of the testimony, I rule that
18 the government has connected up the testimony.

19 So every time, ladies and gentlemen, when I
20 said to you you are going to receive this subject to
21 connection, we can now remove the subject to connection.
22 All of the evidence that was presented to you subject to
23 connection has in the Court's view been connected up and
24 may be considered by you. The weight that you give to
25 that evidence, however, is up to you.

Now it is yours to accept or reject in whole or in part as you see fit.

MR. JOSSEN: Your Honor, the government --

MR. PLATZMAN: Of course I renew my objection to that testimony.

THE COURT: You have your objection.

MR. PLATZMAN: And take my exception.

THE COURT: Yes. The objection is overruled and you have your exception.

MR. JOSSEN: Your Honor, the government rests.

THE COURT: Ladies and gentlemen, the government has rested. That means that the government has completed its case.

The next step is for the Court to consider certain motions which I must do outside of your presence. We will do that at this time.

You will return to the jury room and we will proceed with those matters, and I expect that you will be returning to the courtroom relatively soon and we will continue then until the lunch hour, which will probably be somewhere in the neighborhood of 12:30 to 1:00 o'clock. That is somewhat variable depending on where we are at that time.

I expect that we will be continuing for the

2 full afternoon today.

3 The jury is excused. You are directed to
4 return to the jury room.

5 Please, although the government has now
6 rested, do not discuss the case among yourselves and keep
7 an open mind on all facets of the case until the case
8 has been completed and has been given to you following
9 my charge.

10 The jury is excused for a short recess.

11 (Jury absent)

12 THE COURT: Mr. Platzman, the jury has now
13 been excused and you may proceed with your motion or
14 motions.

15 MR. PLATZMAN: I assume my motions to strike
16 have been denied?

17 THE COURT: The motion to strike I think
18 becomes academic in view of the Court's ruling that the
19 evidence has been connected up. But to the extent that
20 the motion is made, it is denied.

21 MR. PLATZMAN: Yes, your Honor.

22 At this time, if it please the Court, the
23 defendant moves to dismiss the indictment as a whole and
24 each of the respective counts contained in that indictment,
25 to wit, Counts 1, 2 and 3 and Counts 5, 6, 7 and 8.

1
2 As far as the first group of counts is con-
3 cerned, if it please the Court, there is no testimony
4 in the record that the investigation insofar as related
5 to Mr. Doulin and the Monell case, which has been the target
6 in this proceeding, in these proceedings, are matters
7 that come within the scope of this Court and, hence, the
8 jurisdiction of the grand jury, whose jurisdiction is,
9 of course, coextensive with that of the Court, except
10 to the extent as may have been defined by the United
11 States Attorney to the witness at the time he was sworn.

12 A reading of that instruction, your Honor,
13 merely indicates that at that time the jury was investi-
14 gating gambling in Orange County, a matter which would
15 possibly be within the jurisdiction of the federal courts
16 provided, of course, the gambling that was sought to be
17 investigated met certain characteristics under the
18 statute pertaining to the right to investigate gambling.
19 Beyond that, it would still be a state matter.

20 Hence, with respect to Counts 1, 2 and 3,
21 the defendant urges that there is no basis for federal
22 court jurisdiction, if there were any violations in the
23 Monell case, the only linkage by this defendant as claimed
24 in this action, the reference to the Monell case was
25 purely a reference to a proceeding in which the defendant

1 gwjw 10

2 presumably violated the law by attempting as claimed
3 by the government to corrupt public officials. But
4 under the federal statutes referred to in the indictment
5 that corruption has to be of the federal judicial system
6 and not of the state judicial system.

7 There is no proof in this case that the
8 defendant in connection with Monell did take any steps
9 or has there ever been any claim that the defendant did
10 anything that would constitute an attempt to corrupt
11 the federal judicial system.

12 I don't want to enlarge on the memorandum of
13 law which I had submitted to your Honor at the time of
14 the motions to dismiss. I think some of the additional
15 collateral matters and some of the cases that I had
16 referred to are set forth therein, and I won't at this
17 point repeat them.

18 Essentially, your Honor, this is the position
19 of the defendant with respect to the first three counts.

20 I think, in addition, with respect to one
21 collateral matter that the people have, that the govern-
22 ment has, I should say, during the course of this trial
23 enlarged its efforts by including testimony of the defendant
24 to cover an alleged attempt to postpone a hearing on a
25 traffic ticket.

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2 We urge that Count 2, which the government
3 has stated forms the basis of permitting the government
4 in this case to include the facts concerning the attempt
5 to adjourn this traffic ticket hearing as a method of
6 supporting Count 2 must fall.

7 I believe at the time, during the course of
8 the trial when this matter came up, counsel for the
9 government relied upon the isolated question and
10 answer contained at the end of Count 2 wherein the witness
11 was asked about contacting someone, and then ultimately
12 after clarification of several questions concluded with
13 the question by the United States Attorney, "For any
14 purpose?"

15 "A For anything."

16 The claim was made by the government attorney
17 at that time that this would have made -- this answer to
18 that question would, therefore, be unrelated to the question
19 as to whether or not r. Doulin received money for this
20 effort and that it had reference solely to the question
21 as to whether or not he ever approached anyone for any-
22 thing.

23 I should like to call your Honor's attention to the
24 prior questions in Count 2 which clearly indicate that they
25 relate solely to the question as to whether or not this

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2 defendant received any money, "For any purpose?"

3 "A For anything."

4 The last questions and answers are meaningless,
5 the questions and answers as a matter of law, unless it
6 is read in conjunction with the questions which preceded
7 it.

8 I should like to call that to your attention.
9 The question asked of the witness at that time was, "I guess
10 what I had asked you was, and you started to answer, I
11 asked you if there ever came a time when anyone had
12 approached you to ask you to exert some influence or had
13 offered you any money to try to exert influence in connection
14 with the gambling laws?"

15 "A Nobody offered me money."

16 And there is a balance to that answer.

17 But tying it into the subsequent questions,
18 counsel then said, "And that means gambling or anything
19 else?"

20 "A Gambling or anything else."

21 Then he gave examples. Then finally the
22 question, "For any purpose?"

23 "A For anything."

24 We submit, your Honor, that this is a matter
25 of law has to be tied into the prior questions which concern

1 gwjw 13

2 themselves with the attempt, alleged attempt on the part
3 of the defendant to corrupt the judicial system, its
4 prosecutors or judges, or whether he had been offered
5 money to do this.

6 Furthermore, with respect to Counts 1, 2 and
7 3, they are reptitious. They contain the same allegations
8 with respect to each other in that the witness is asked
9 substantially the same thing at different points during
10 the same session of the grand jury.

11 The fact that the language changed slightly
12 does not alter the fact that the witness was being asked
13 about the same thing and it constitutes a segmentation,
14 as I have indicated previously on the motions that were
15 made before your Honor, and your Honor indicated at that
16 time that on motion this was not appropriate, but that
17 following perhaps testimony a renewal of the motions might
18 be in order.

19 We urge, your Honor, that these three counts,
20 even to the extent they may be on their face alleged
21 valid, valid crime, these three counts are all the same.
22 They concern themselves essentially with the same thing.
23 That is, assuming that your Honor would define in contra-
24 diction to the position I had taken, that they concern
25 themselves essentially with the Monell case as claimed by

1 gwjw 14

2 the government.

3 I would like to interrupt once again. I think
4 we have some more witnesses that walked in.

5 THE COURT: We will excuse the witness or
6 witnesses who have just arrived and ask that they be
7 escorted to the witness room.

8 (Pause)

9 MR. PLATZMAN: The Court has excused all
10 witnesses.

11 THE COURT: Thank you very much.

12 MR. PLATZMAN: And, hence, would constitute
13 alleged violations of state law as distinguished from
14 alleged violations of federal statute.

15 With respect to the remaining four counts,
16 5 through 8 inclusive, there, too, we are concerned
17 essentially with what took place in the Monell action,
18 the Monell case, that they are again repetitious, that they
19 constitute a segmentation, asking the witness the same
20 thing in other language at the same point throughout the
21 hearing.

22 We urge in addition, your Honor, that these
23 counts also are counts which concern themselves with
24 alleged violations of federal statutes, that there is no
25 relationship between the Monell case and any alleged

2 investigation concerning gambling, and that the instructions
3 to the witness at the time that this second session took
4 place also make reference to that scope of investigation
5 and, hence, were limited, as was indicated during the
6 disclosure period, with that which took place with respect
7 to the Monell case.

8 The defendant also urges that in addition
9 the questioning of Mr. Doulin during this second session,
10 1975 grand jury, upon its face and coupled with the
11 testimony as appears upon this trial, and I also have
12 particular reference to the materiality portion of the
13 trial and the separate hearing held by your Honor, that
14 the questions and answers with respect to the matters
15 set forth were totally immaterial as a matter of law for
16 the reason that at the time these questions were asked
17 the government, its agencies and the grand jury already
18 had all the information that it needed and about which
19 this examination was taking place, that the witness was
20 asked questions in a general way concerning alleged
21 occurrences that took place in which Mr. Doulin was allegedly
22 involved with other people.

23 The questions were posed in a general way.
24 Yet at that very moment the questioner had in his
25 possession affirmative testimony as to the identity of

1 those persons, as to what the conversation was that allegedly
2 took place and all of the facts which were essential.
3 Hence, this was not an investigation and the defendant
4 submits that the only reason for calling the defendant
5 back was that there was inadequate evidence with respect
6 to the admission of a crime and that the only reason he
7 was brought back was for the purpose of setting it up for
8 perjury.
9

10 I should like to refer your Honor specifically
11 again to the more recent decision of Judge Leff where the
12 identical situation took place with respect to the
13 Monahan indictment, and there is sufficient case law to
14 indicate that the questions themselves have to be such
15 that they would effect or mislead the grand jury, and
16 by its nature if the grand jury or the government already
17 knew all of these facts as to which now questions were
18 being posed to the defendant, it was not being misled.

19 For these reasons and those additionally that
20 I have indicated in my prior memorandum, the defendant
21 moves to dismiss each one of these counts.

22 Furthermore and finally, your Honor, the
23 counts here too fall into the category of segmentation
24 in which one count after another repeats the same thing
25 in another language, whether he was approached, whether

he received money and whether he offered money, and one step at a time, but, nevertheless, with respect to the same set of circumstances. And here obviously the set of circumstances under consideration were those that pertained to the Monell case.

If anything, there is a single count involved and the single count is not supported by the record in view of the fact that the grand jury and the government already are aware of everything sought to be "investigated" at this session of the grand jury.

For those reasons, your Honor, the defendant moves to dismiss the indictment as a whole and the individual counts thereof.

THE COURT: Mr. Jossen.

MR. JOSSEN: Your Honor, just a brief response to a few of the points.

THE COURT: I want a response on the question of federal jurisdiction. He addressed himself to the question. I am aware of the statutes on which the government relies. The one which is apparently the first on the reliance is the gambling statute and I would like, if you would, to address yourself to the basic contention that this is not a matter within the jurisdiction of this Court; all be it, it might be a matter within the

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2 jurisdiction of a state court since it is the state
3 judicial process that is alleged to have been interfered
4 with and subverted.

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MR. JOSSEN: Your Honor, the cases make clear that it is sufficient to be within the federal jurisdiction if in the course of the grand jury's investigation the matters about which perjury has been committed might lead to particular leads or a link or a chink in the particular piece of evidence which will ultimately lead to federal jurisdiction in a particular crime.

Now, here, your Honor, when Mr. Doulin appeared before the first federal grand jury, the grand jury which, as your Honor has found, was clearly investigating violations or potential violations of the federal gambling statutes, if Mr. Doulin had testified truthfully before that grand jury and had given the information with respect to his contacts in various offices of public officials, the district attorney's office, or any other information which he might have had concerning judges or any other politicians, the grand jury might well have had further leads which could have resulted in an indictment under the gambling statutes or any of the other statutes which were clearly expressed in the preamble to Mr. Doulin's first testimony before the grand jury.

That was sufficient, your Honor. The fact that Mr. Doulin, according to the indictment, had in fact information about intercession in one case, the fact that

1 2 Gwmmh

2 that case might not have been a state gambling case, did
3 not mean that he would not have information about other
4 cases which were in fact gambling cases.

5 Furthermore, your Honor, in the same grand jury
6 before which Mr. Doulin first appeared there had been
7 explicit testimony which named Mr. Doulin in connection with
8 various gambling matters and gambling payoffs which he
9 had received.

10 It was accordingly clearly proper to have Mr.
11 Doulin appear before the grand jury as a witness to find out
12 what information, if any, he had which was relevant to the
13 grand jury's inquiry.

14 THE COURT: Should not this matter have been turned
15 over to a state prosecutor to prosecute in the state
16 courts where the judicial system had been undercut and
17 subverted?

18 MR. JOSSEN: Your Honor, the underlying inves-
19 tigation in the first federal grand jury dealt with cor-
20 ruption of state officials in connection with gambling
21 matters, which is a clear federal crime.

22 THE COURT: It is pretty well established to my
23 satisfaction that whatever else he might have been Mr.
24 Monell was not connected with gambling.

25 Now, I may have missed something in the testimony

1 3 Gwmch

2 and in the evidence. He was accused of a grudge fight
3 leading to an assault with a gun. I don't remember
4 anything about a dispute over a gambling operation, proceeds
5 or anything like that. His activities were, in the first
6 instance, removed from gambling.

7 I see where your argument goes. Mr. Doulin's
8 allegedly false testimony did not lead to leads as to
9 officials, and if he had, those officials might have
10 disclosed matters which would have led to prosecutions under
11 the anti-gambling statute. I see your reasoning, but
12 I am having some difficulty with it, and I would like
13 you to proceed to elaborate.

14 MR. JOSSEN: I think it is a little stronger
15 than your Honor just summarized.

16 If the grand jury received evidence, the first
17 grand jury, that in fact there had been one criminal case
18 in Orange County which had in any way been fixed in any
19 respect. then it would have been very reasonable for the
20 investigation to have proceeded to the district attorney's
21 office or the judge's, or other lawyers, or anybody else
22 who could have been involved in the fixing of other cases
23 related to gambling, and I emphasize, your Honor, that
24 was the grand jury that heard testimony about payoffs to
25 various public officials in connection with protection.

1 4 GwMch

2 So the similarity between the Monell case and gambling
3 cases, even though Mr. Monell was not indicted in the
4 state matter for a gambling case, was striking enough so
5 that the grand jury's investigation flowed from one to the
6 next, and any evidence which Mr. Doulin had in connection
7 with the Monell case was clearly relevant to give the
8 grand jury leads toward the gambling cases in that
9 county.

10 THE COURT: You are saying basically that this
11 would have uncovered a dishonest person in the district
12 attorney's office, a person who would have had jurisdiction
13 over gambling matters as well as non-gambling matters?

14 MR. JOSSEN: That is correct, your Honor, or
15 possibly some other public official other than in the
16 district attorney's office, but which still would have
17 given the grand jury jurisdiction under the federal
18 gambling act, under Section 1511 of Title 18, specifically.

19 THE COURT: Yes, I have that section in front
20 of me at the moment, as a matter of fact.

21 MR. JOSSEN: Which, by the way, the title
22 should be read, which is "Obstruction of state of local
23 law enforcement." Clearly it refers to a gambling
24 situation.

25 THE COURT: That is correct.

1 5 GWmch

2 MR. JOSSEN: As I indicated, the possible
3 parallel between the Monell case and any other state
4 criminal case was sufficient, significant enough, to
5 justify the grand jury's investigation into any state
6 case whether it had been fixing, something wrong with the
7 case, which might lead to a lead on gambling.

8 Your Honor took judicial notice yesterday there
9 were in fact indictments from the same grand jury with
10 respect to individuals in that area.

11 THE COURT: Yes, there were indictments to which
12 you have made reference involving gambling and payoffs,
13 if my recollection is correct.

14 I would ask at this point that you address
15 yourself to counsel's argument that these seven remaining
16 counts represent a splintering of subject matter, so that
17 at least some of them should be dismissed as repetitious
18 or redundant.

19 MR. JOSSEN: Fine, your Honor. I would first
20 like to comment on one other point counsel made in his
21 position.

22 He made a distinction between the first three
23 counts and the remaining four counts, and stated that
24 Mr. Doulin was in effect called back to the second federal
25 grand jury to be set up.

1 6 Gwch

2 I think the record should be perfectly clear on
3 that, since we have already heard testimony from Mr.
4 Doulin's grand jury appearance, the second time Mr. Doulin
5 appeared before the grand jury, the January 1975
6 additional grand jury, he was given the grand jury testimony,
7 a transcript of his testimony from his first appearance,
8 given an opportunity to read it, to go over it carefully,
9 and asked whether there was anything in that testimony
10 which he wanted to change.

11 THE COURT: I don't find that he was set up,
12 frankly. I don't think it's incumbent upon a prosecutor
13 to sit down with a defendant and tell him, "Look, we know
14 this, this and this," and tell the defendant everything,
15 and then say, "We want to question you now."

16 I suggest that there are certain investigative
17 techniques which are permissible. I find that the manner
18 in which Mr. Doulin was treated in the grand jury, as
19 reflected in the minutes of his appearance, was within
20 reasonable limits.

21 MR. JOSSEN: Your Honor, with respect to the
22 point about which you have asked me to comment, and that
23 is specifically the different counts in the indictment,
24 the Government submits that it is sufficient that these
25 counts cover different possibilities in terms of the present

1 7 GWmch

2 facts which have been presented to the Court and to the
3 jury, that the jury might well be able to conclude that
4 the Government's evidence proves certain counts but does
5 not prove other counts.

6 Accordingly, depending on how the jury were to
7 view the facts as they have been presented at this trial,
8 there could be verdicts on different counts. So that the
9 Government submits that the counts are not simply
10 repetitious.

11 Let me give a brief illustration.

12 Count 1 refers to any conversations about
13 things of value, receiving anything of value. Now, the
14 jury could find that there was a discussion with Mrs.
15 Grant and Mr. Doulin through testimony, for argument's sake,
16 of Flo Hall, that it would cost money to get Mr. Monell
17 out of jail.

18 On the other hand, Count No. 3 refers to what
19 things of value, if anything, Mr. Doulin ever received.

20 The jury could conclude, for argument's sake,
21 that Mr. Doulin did not receive anything of value, but
22 that he did have a conversation about receiving something
23 of value, or that he did intercede, as is covered by
24 Count 5 in the indictment, formerly Count 6 in the
25 indictment.

1 8 GWMch

2 There is also a question about whether Mr.
3 Doulin did anything other than having a conversation with
4 Mrs. Grant about what he was going to do to help Mr.
5 Monell out. That is covered by the last count in the
6 indictment.

7 Now, the second count in the indictment, we
8 submit that the breadth of that count in large measure
9 is controlled by the way that Mr. Doulin chose to answer
10 the questions. He answered the questions even more
11 expansively as he went on.

12 For argument's sake, I address your Honor's
13 attention to Page 7 of the indictment, the last paragraph
14 in the answer:

15 "At least I tell them I'll make an effort to see
16 what I can do, but I have never yet approached a D.A., an
17 assistant or any judge for anyone.

18 "Q For any purpose?

19 "A For anything."

20 Then in Count 3 of the indictment, for example,
21 on Page 8, Mr. Doulin's answer to the very first question:

22 "I'll answer it and I give you the privilege of
23 looking up all bank accounts you want on my behalf that I
24 have. The only thing that I ever had given to me was
25 quite publicly."

1 9 GwMch

2 And it goes on.

3 The answers given by Mr. Doulin were expanding
4 the scope of his denials of ever interceding in any case
5 and of ever discussing any intercession in any case and
6 ever receiving anything of value.

7 Now, Count 8, for argument's sake, your Honor,
8 the last count in the indictment, could well be satisfied
9 by the Government's proof that Mr. Doulin had a conver-
10 sation with Mr. Shapiro following the resentencing. That
11 could also be satisfied by the inference that Mr. Doulin
12 had a conversation with somebody else in the district
13 attorney's office.

14 The point is, your Honor, that the different
15 counts in the indictment address different possible views
16 of the facts as they have been presented here. The
17 jury could conclude with different verdicts on different
18 counts, depending on how they were to view the evidence.
19 The counts are not repetitious. They charge specific
20 acts and general acts depending on how the jury would
21 interpret the facts as they decide them at the end of the
22 trial.

23 THE COURT: Thank you.

24 (Discussion off the record)

25 MR. PLATZMAN: I just have one comment to make

1 10 GWmch

2 to the first portion of Mr. Jossen's argument concerning
3 whether or not this really belonged in the state juris-
4 diction, whether it was a state problem or a federal
5 problem.

6 Counsel urges that the grand juries were
7 investigating gambling, and yet there is no doubt,
8 and this was the limits to which these proceedings were
9 set, that we are concerned here with whatever happened in
10 the Monell case, possibly in the request for the adjourn-
11 ment on the traffic ticket. But certainly that's far
12 removed from gambling, and I urge that the mere fact that
13 something could possibly happen is so remote that this
14 Court should not assume jurisdiction.

15 I could say the same thing. You tell me any
16 section anywhere in Minnesota or in Nebraska or in the
17 federal courts, and tell me that perhaps if I ask more
18 questions about gambling I can find out what happened in
19 Minnesota.

20 Now, I say this is so remote that it does not
21 belong within the federal court's jurisdiction. If
22 anything, a state crime was committed, but not beyond that.

23 This is the defendant's main contention with
24 respect to the validity of the entire indictment, that we
25 are concerned with acts that relate basically to an

1 11 GwMch

2 attempt, as claimed by the Government, to fix a probation
3 in a state court, possibly also to get an adjournment of
4 a traffic hearing in a state court. That is not a federal
5 crime and no matter what proceeding its tail is tacked onto,
6 it is sufficiently remote to prevent this Court from
7 having jurisdiction.

8 THE COURT: Thank you.

9 In view of the Court's prior ruling on the issue
10 of materiality, I will not go into that at this time.

11 Although the Court entertains some reservation
12 relative to the Government's argument on the matter
13 on federal jurisdiction, I can understand it, and although
14 it requires a two-stage approach, I can conclude properly
15 that the grand jury was investigating activities which
16 could reasonably lead to uncovering violation of federal
17 laws, including and not limited to the gambling laws,
18 going beyond the gambling laws to violation of the Internal
19 Revenue Code relative to the obtaining of money which was
20 thereafter not reported, which was another aspect which was
21 not explored during the argument, but I do note the
22 mention within the indictment of U. S. Code, Section 7201.
23 A mention of that appears on the recitation preliminary to
24 Counts 4 through 8, at the bottom of Page 9.

25 So that I have concluded that there was and is

1 12 Gwmch

2 appropriate federal jurisdiction. I conclude also that
3 Mr. Doulin was treated within reasonable limits when he
4 appeared before the grand jury and was not in some way
5 deceived or victimized in a manner which should require
6 the dismissal of this indictment.

7 I can also read the indictment as the Government
8 has asked me to, and at this stage I think I must
9 and will treat the Government's version of the facts in
10 a light most favorable to the Government. I think that
11 is required of the Court at this stage of the proceedings.

12 Under all the circumstances, I have concluded
13 that the various counts state separate crimes. Accordingly,
14 the defendant's motion to dismiss is denied.

15 MR. PLATZMAN: May it please the Court, so we
16 may be able to resume promptly, I have a lengthy motion
17 on this question for a continuance, and I would like to
18 hold this until the luncheon recess so that we can dispose
19 of one or two of these witnesses.

20 THE COURT: Yes, I understand, so the record
21 will be clear, that counsel at the outset of the defendant's
22 case wished to make an application for a continuance.
23 He has apprised the Court he intends to do so. I will
24 permit him to do so as he has just requested, after he has
25 called whomever he has present who he wishes to have

1 13 GwmcH Fish-direct

2 completed prior to a recess.

3 MR. PLATZMAN: Thank you.

4 THE COURT: Miss Kruger, bring out the jury,
5 please.

6 I would suggest you have your first witness
7 ready.

8 MR. PLATZMAN: Mr. Hamilton Fish.

9 (Jury present)

10 THE COURT: Ladies and gentlemen, we have taken
11 care of the legal matters which required a recess. We
12 now proceed to the next stage of the case, which is the
13 defendant's case.

14 You may proceed, Mr. Platzman.

15 MR. PLATZMAN: Mr. Hamilton Fish.

16 THE COURT: Mr. Fish, please.

17 H A M I L T O N F I S H, called as a
18 witness by the defendant, being first duly sworn,
19 testified as follows:

20 DIRECT EXAMINATION

21 BY MR. PLATZMAN:

22 Q Mr. Fish, where do you reside?

23 THE WITNESS: Judge, can I ask a favor? I am
24 a little bit deaf.

25 THE COURT: We will have Mr. Platzman speak in

1 14 GWmch

Fish-direct

2 the loudest voice possible and I'll help him.

3 THE WITNESS: Not too loud.

4 I am not completely deaf.

5 Q I will try to stand here, Mr. Fish. Do you
6 think you can hear me?

7 A Yes.

8 Q Thank ou very much.

9 Mr. Fish, where do you reside?

10 A Well, I reside now, to be very truthful with
11 you, in New York City.

12 Q And prior to living in New York City, did you
13 live somewhere else?

14 A Oh, yes. I have lived a number of different
15 places. I was 25 years in Congress and lived in Washington
16 for 25 years and lived in Newburgh for 10 years.

17 Q You came from the Newburgh area?

18 A I represented that for 25 years, yes.

19 Q As you have indicated, I gather at some period
20 of time you were --

21 A I didn't hear that.

22 Q I gather that at some period of time you were
23 a Congressman representing your district in the United
24 States Congress?

25 A Well, I hope I represented it. I was 25 years

1 15 Church

Fish-direct

2 and I was never defeated in Orange County, no.

3 Q Mr. Fish, how old are you?

4 THE WITNESS: Do I have to tell that, your Honor?

5 THE COURT: No, I don't think you do.

6 THE WITNESS: I want to tell your Honor. I am
7 proud of it.

8 A I am 86 years old and I will be 87 on the 7th
9 of December. I will be 87.

10 Q Congressman ---

11 THE COURT: Mr. Fish.

12 Q Mr. Fish, what was the nature of your profession
13 prior to retiring as a Congressman?

14 A I have to tell you the truth. I have been in
15 public service all my life. I was in the state legislature
16 three years. I was 25 years in Congress. So I would say
17 I was in the government service for a great many years.

18 Q What last office did you hold and when?

19 A Well, I think the last office was in '45 when
20 I left Congress.

21 Q And you are retired now, I assume?

22 A I am retired, but I am an author. I am writing.

23 Q When you were a young man, were you a member
24 of the football team?

25 A The jurors wouldn't be interested in that. I am

1 16 Gwmch

Fish-direct

2 the only one alive of the All-American football team.
3 But that has nothing to do with politics. That's of the
4 past.

5 Q Are you a member of any organizations or
6 associations?

7 A Oh, many. I am a Republican. I belong to the
8 Harvard Club and many other clubs.

9 Q Did you attend Harvard?

10 A I am very active in a number of organizations.

11 Q Can you tell us some of them?

12 A Well, Order of Lafayette, I am the president
13 of that. I am head of Operations Freedom that carries
14 democracy throughout the world.

15 I can go through a lot of others, too, but I
16 think that's enough.

17 Q Mr. Fish, do you know Mr. Doulin?

18 A Oh, yes. I have known him for forty years.

19 Q And can you tell us the circumstances under
20 which you first met Mr. Doulin?

21 A Well, while I was in Congress, I was a
22 member of the Republican committee in Newburgh, and also
23 Orange County, for ten years, and he was chairman of the
24 city committee at that time. Naturally, I knew him very
25 well. I always had great confidence in him and liked him
personally and believe in him, and particularly in his

Q You say a city committee.

What city was that?

A City of Newburgh.

Q The district that you represented, what area does that cover?

A That covered the counties of Orange, Dutchess and Putnam. My son represents most of them today in Congress.

Q Do you know Mrs. Doulin?

A Very well. I have great respect for her.

Q Is that the lady sitting in the front bench in the center?

A Yes, I know her very well.

Q Have you had occasion to see Mr. Doulin at many times?

A Many, many times.

Q Can you tell us some of the circumstances under which you saw Mr. Doulin and members of his family?

MR. JOSSEN: Objection, your Honor.

A Well, I'm --

THE COURT: I will let him answer. It is background.

A I don't think it is too important, but I would be delighted to answer it because I have had them to dinner

2 and dined with them and I dined with them in the south
3 just last year in Palm Beach. I dined with them there.
4 They have been my friends for a long while because I
5 always believed in them and I believe in them now more
6 than ever.

7 Q In your association with Mr. Doulin, did you
8 also have occasion to meet with him with reference to
9 various military matters?

10 A I can't hear that.

11 THE COURT: Mr. Reporter, would you read
12 back the question.

13 (Question read)

14 A Oh, yes. He was almost my boss or my subordinate,
15 whichever way you take it. I was congressman. I was a
16 committeeman on the city committee. I discussed politics
17 with him for many, many years.

18 Q That would include all the political problems
19 that arose in his area of which --

20 A Most of all, yes.

21 Q During the time that you were in Congress, what
22 positions did Mr. Doulin hold politically that you recall?

23 A I don't think he held any. I may be -- of
24 course, he was an undertaker and he represented his district
25 on the county committee, city committee and was chairman

1 gwjw 3 Fish - direct
2 of the committee, which happened to be a Republican city.
3 He was a good chairman.

4 I was on that committee. I knew him very,
5 very well. I tell you, if you ask me more details, I
6 could answer them.

7 Q Did you know many people who also knew Mr.
8 Doulin and were friendly --

9 A I knew everybody. I knew the people of that
10 county as well as anybody and they were very friendly
11 always to me and I never lost a single district in the
12 county, whether it was Catholic, Protestant, Jewish. I
13 knew them all. Most of them liked Mr. Doulin.

14 Q The same people you knew were the same people
15 Mr. Doulin knew and he knew them and they knew him?

16 A Of course, I knew all of his friends and he
17 knew mine.

18 Q Mr. Fish, can you state that you have any
19 familiarity with the reputation of Mr. Doulin in the
20 community.

21 MR. JOSSEN: Objection as to form, your Honor.

22 THE COURT: Yes. If you just rephrase the
23 question.

24 Q Do you have any familiarity, Mr. Fish --

25 A Of course I knew him.

1 gwjw 4

Fish - direct

2 MR. JOSSEN: Objection to the form.

3 A I believe he was a man of integrity or I
4 wouldn't have known him. I am very much against corruption
5 of any kind and always have been. I always had great
6 faith in him. I knew him intimately. I knew everything
7 he was doing. Naturally I feel the same way. Of course
8 I knew him very well.

9 Q What was his reputation for honesty and
10 truthfulness?

11 A His reputation was that he was a politician,
12 a chairman of the Republican committee and that he would
13 not accept a bribe from anybody. That's his general
14 reputation over the entire district from Albany, Orange
15 and the rest of my congressional district with almost
16 everybody. That's the general reputation.

17 Q What about his reputation for truthfulness?

18 A Well, that goes the same way. He's a very
19 unique character. I have never known a more outspoken
20 or truthful man in my political life of fifty years.
21 Perhaps he does himself damage by being so truthful. He
22 tells his views to everybody and he doesn't care a bit.

23 Q What was his reputation in that regard within
24 the Republican party circles?

25 A Well, he wouldn't have been elected chairman

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Fish - direct/cross

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unless they had confidence in him, and he was chairman for many years, and I suppose he was one of the most effective Republican chairman in the State of New York by the results.

MR. JOSSEN: I object, your Honor. The answer is not responsive to the question.

THE COURT: I will strike it.

Q Can you tell us, Mr. Fish, within Republican party circles what was his reputation for honesty and truthfulness?

MR. JOSSEN: Objection, your Honor.

THE COURT: Sustained.

MR. PLATZMAN: I have no other questions.

THE COURT: You may cross examine, Mr.

Jossen.

MR. JOSSEN: Thank you, your Honor.

CROSS EXAMINATION

BY MR. JOSSEN:

Q Mr. Fis , let me know if you can't hear me, please.

Have you heard any of the testimony which has been given in this case, sir?

A No, I have not followed the case. I may have read something in the papers, but very little. I have

heard that there were some charges of corruption and that's all.

Q You are not familiar with any of the facts in this case; is that right?

A . No, I think that's up to the jury and not for me.

Q But you have no knowledge of the facts in this case; is that correct?

MR. PLATZMAN: I object to the form of that question.

THE COURT: I think the witness has indicated that other than what he has read in the paper, the answer is no; is that right?

THE WITNESS: Right.

Q Mr. Fish, would you agree with me that tampering with any legal case is a serious matter?

MR. PLATZMAN: I object to that, if it please the Court.

THE COURT: Yes, I don't think that needs any testimony.

MR. JOSSEN: No further questions, your Honor.

MR. PLATZMAN: Thank you very much, Mr. Fish.

THE COURT: Thank you, Mr. Fish.

THE WITNESS: Your Honor, is there any way --

2 I came here hoping to tell the truth specifically about
3 some knowledge I have about the charges of corruption
4 against Mr. Doulin years ago -- not corruption against
5 him, but something that has great bearing on this case.

6 THE COURT: I suggest that since counsel have
7 seen fit not to ask you additional questions, it would be
8 best if you terminated your examination at this time.

9 THE WITNESS: Can I say this for your Honor
10 for just one minute --

11 MR. SCHWARTZ: Your Honor, I don't like to
12 interrupt --

13 THE WITNESS: I know you are interested in
14 having the truth known by the jurors. I don't know this
15 young man who is interrogating me. I knew the man who
16 was the former -- who was to do it and he would have
17 asked the questions whether I knew anything about the
18 reputation of the defendant for honesty. I do know that
19 and it is the most important thing. It has not been
20 brought out whether I knew about his reputation for honesty
21 which I think the jury wants to know the truth and know
22 about it.

23 If you had asked me the question, simply asked
24 me, do you know anything affecting the honesty and integrity
25 of Mr. Doulin specifically, I could do that.

2 THE COURT: I understand what you are saying.
3 Let me just suggest this: It is incumbent upon the
4 Court to leave the inquiry to counsel, and counsel did
5 ask you a series of questions in the area of reputation
6 and integrity, and I would suggest he feels that he wishes
7 to let the record stand with the answers to the questions
8 which he asked.

9 THE WITNESS: Hasn't he the right still to
10 ask me --

11 MR. PLATZMAN: He may not have heard my
12 question, your Honor.

13 THE WITNESS: I can tell the truth.

14 THE COURT: Counsel has asked leave to make
15 one more inquiry of you. You may do so. Mr. Platzman.

16 REDIRECT EXAMINATION

17 BY MR. PLATZMAN:

18 Q You may not have heard me, but the question
19 that I put to you, Mr. Fish, was that I asked you whether
20 you knew the reputation of this defendant for honesty.
21 If so, I would like to know what it was.

22 A Well, if you ask me specifically, yes. I
23 thought you were asking in a general question. I said yes.
24 When you -- if you ask specifically, I will tell you very
25 specific, exact thing about his reputation for this.

2 That's why I'm here in the court. I might not have come
3 here if I didn't tell you what I'm going to tell you.
4 I'm very much against corruption. I told you that.

5 Q Yes. This is what we would like to hear.

6 A I will answer that question now.

7 Q Thank you.

8 A When I was last running for Congress in '45,
9 a lot of money around --

10 THE COURT: I am sorry --

11 A -- I was offered -- this is what I'm saying.
12 I know to my knowledge specifically -- I know to my know-
13 ledge specifically -- that is what you asked, that Mr.
14 Doulin was offered \$15,000 bribery to vote against me, and
15 I'm here to testify to that if anybody asks me. The
16 jury wants to know the truth. I think it is one of the
17 most extraordinary things that ever happened in my life,
18 and I would be derelict to my own career and to him if I
19 didn't tell the truth. That's what I wanted to tell you
20 and that was 30,000 then, today, and he told him to go
21 to hell.

22 THE COURT: Thank you very much, Mr. Fish.

23 THE WITNESS: I think the Judge should know
24 that and the jury should know that. That's my word.

25 THE COURT: Thank you, sir.

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2 MR. JOSSEN: No further questions, your
3 Honor.

4 THE WITNESS: Thank you very much.

5 (Witness excused)

6 MR. PLATZMAN: Judge Reilly.

7 J O H N J . R E I L L Y , called as
8 a witness by the Defendant, being first duly
9 sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. PLATZMAN:

12 Q Where do you reside?

13 A At Upper Nyack, Rockland County.

14 Q How long have you lived in Rockland County?

15 A Twenty-five years.

16 Q What is your occupation or profession?

17 A I'm a Judge of the Court of Claims, assigned
18 to the Supreme Court Criminal Term.

19 Q And the Court of Claims is what kind of a
20 court, a state court or a federal court or a city court?

21 A A Court of Claims is a state court of general
22 jurisdiction.

23 Q You say you are assigned to the criminal
24 division?

25 THE COURT: Term I believe it is called.

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A Term.

Q I assume your urgency was to get back to your duties this morning.

A Yes, indeed.

Q Where are you sitting? What is the area?

A I'm sitting in Manhattan County, at 111 Centre Street in the Supreme Court.

Q Right.

Can you tell us, Mr. Reilly, what is your profession?

THE COURT: Prior to becoming a judge.

A I was a County Judge of Rockland County and I have been an Assistant Attorney General of the State of New York for twenty years prior to that time.

Q What were your duties as an Assistant Attorney General of the State of New York?

A To defend the State of New York in all cases which are instituted against the state and its agencies throughout the state.

Q Was this at the time that you were living in Rockland County?

A Yes.

Q How long have you been living in Rockland County?

A Well, my family moved to Rockland County about 1840 and it has been in Rockland County since that time.

THE COURT: You were born up there?

THE WITNESS: No, I was born in New York City.

Q Did you at any time during this period get to know Mr. Doulin?

A I have known Mr. Doulin for at least twenty years.

Q During that time he lived and was active in Orange County; is that right?

A That's correct.

Q May I ask you what other affiliations you have, what organizations, what affiliations?

A Well, prior to affiliations -- of course now I belong to the American Legion, I belong to the Knights of Columbus, of course I am a member of the Art Association in Rockland County. I think that's about it.

Q Can you tell us --

A And of course the Bar Associations of the county and of the state.

Q Can you tell us what were the circumstances under which you first met Mr. Doulin?

A I first met Mr. Doulin when I had the honor to be elected the Republican chairman of Rockaldn County,

and that was back in the early sixties.

I met Mr. Doulin at that time. He had been elected the Republican chairman of Orange County.

Q Did you get to meet him and his family?

A Yes, I did.

Q Do you know Mrs. Doulin?

A Yes, I do.

Q Would you point her out to us in the courtroom?

A She's the charming lady sitting in the pink

dress.

Q Do you know other members of his family?

A Yes, I do.

Q What other members of the family do you know?

A I know his daughters and his son-in-law.

Q How many daughters does he have?

A He has two.

Q Two daughters.

Does he also have any other members of his

family?

A He has -- I think it's three daughters all together, adopted daughter.

Q One is an adopted daughter?

A Yes.

Q But two natural daughters?

2 A Correct.

3 Q Have you seen Mr. Doulin socially from time
4 to time?

5 A I have seen Mr. Doulin on many and various
6 occasions over the twenty year period.

7 Q Some of these include political and some non-
8 political?

9 A Well, of course now as a judge and as a
10 County Judge I did not indulge in political affairs,
11 but certainly when I was an official, had the honor of
12 being the chairman of Rockland County, I saw Mr. Doulin
13 at various affairs, both in Rockland County, Orange
14 County, Albany and throughout the state.

15 Q Did you also meet him or did you meet him on
16 any occasion where the occasions were not political?

17 A Yes, I met Mr. Doulin on social occasions.
18 He has been a guest at my wife's family's home in Kentucky.
19 We have made different short trips together and I would
20 say that we are intimate friends.

21 Q Do you know many of the people that are known
22 to Mr. Doulin and whom he knows?

23 A Yes, I think I know most of the people that
24 are known to Mr. Doulin.

25 Q Common acquaintances and friends?

2 A Yes.

3 Q Can you tell us whether you have any knowledge
4 concerning the reputation of Mr. Doulin for honesty and
5 truthfulness?

6 MR. SCHWARTZ: I object to the form, your
7 Honor.

8 THE COURT: Sustained.

9 Q Are you familiar with the reputation of Mr.
10 Doulin in the community?

11 A Yes, I am very familiar with the reputation
12 of Mr. Doulin in the community.

13 Q Can you tell us whether you are familiar
14 with his reputation with respect to honesty?

15 A I am, indeed.

16 Q And his reputation with respect to truthfulness?

17 A I am, indeed.

18 Q Can you tell us what that reputation is and
19 tell it to us and describe it to the best of your
20 ability?

21 A Yes. He has a reputation of a man who speaks
22 the truth and who is a square-shooter in all of his daily
23 businesses and in his life. He also has an excellent
24 reputation for honesty.

25 Q What is that reputation, if you know, in

2 political circles?

3 MR. SCHWARTZ: Objection, your Honor.

4 THE COURT: Sustained.

5 Q Can you tell us anything further concerning
6 his reputation in these areas?

7 MR. SCHWARTZ: Objection, your Honor.

8 THE COURT: Sustained.

9 MR. PLATZMAN: No other questions.

10 MR. SCHWARTZ: May I proceed?

11 THE COURT: You may.

12 CROSS EXAMINATION

13 BY MR. SCHWARTZ:

14 Q Judge Reilly --

15 THE COURT: Mr. Reilly in the courtroom.

16 MR. SCHWARTZ: Excuse me.

17 Q How long have you been on the bench, Mr.
18 Reilly?

19 A I was appointed two years ago in May as a
20 Court of Claims Judge. Prior to that I was in Rockland
21 County as a County Judge for approximately one year.

22 Q Who appointed you?

23 A As a County Judge I was appointed by Governor
24 Rockefeller and as a Court of Claims Judge I was appointed
25 by Governor Malcolm Wilson.

Q Are you here under subpoena today, Mr. Reilly?

A I am not.

Q Mr. Reilly, are you familiar with the Code of Judicial Conduct?

A I am, indeed.

Q Would you tell us what it is, please?

A I think to tell you what the Code of Judicial Conduct would be would take hours, and I certainly haven't memorized it. I would say that a Judge is at all times required to reflect the best example of morality and honesty in the community and conduct in the community. That's the substance of it.

Q Are you familiar with Canon 2?

A I am not. You probably can refresh my recollection.

Q Do you know that it states that a judge should not testify voluntarily as a character witness?

A I was requested by Mr. Doulin to be his character witness. I don't think it is required that he serve a subpoena on me.

MR. SCHWARTZ: May I have this marked as Government's Exhibit 37 for identification.

THE COURT: You may.

(Government's Exhibit 37 marked for

identification)

THE COURT: Is that a volume of Martindale-Hubbel?

MR. SCHWARTZ: Yes, it is, Volume 6.

Q Let me direct your attention to this portion of the page.

Would you read that to yourself.

I have read it.

Q Is your answer the same to the last question as to whether --

A My --

Q May I finish the question?

A My answer is exactly the same.

Q That you don't believe it is necessary for you to be under subpoena to appear as a character witness.

A I believe what you are after here is justice. For an individual --

MR. SCHWARTZ: I object, your Honor.

THE COURT: Sustained. I will have to strike that answer.

Q Does reading what you have just read refresh your recollection as to whether you have to be --

A I never had a recollection of what you wish me

2 to read. I will read it and it informs me and I don't
3 believe there is any violation of any judicial ethic in
4 actually responding to the request to Mr. Doulin to be
5 his character witness.

6 Q In other words, you didn't know what was in
7 this Canon?

8 A I didn't say I didn't know what was in the
9 Canon. I think I told you substantially what is in the
10 Canon.

11 MR. SCHWARTZ: I have no further questions,
12 your Honor.

13 THE COURT: Very well.

14 REDIRECT EXAMINATION

15 BY MR. PLATZMAN:

16 Q Would there have been any question, Mr. Reilly,
17 if you were aware or I was aware of that section, if you
18 would have received a subpoena, you would have come down,
19 in any event?

20 A No question at all.

21 Q Are your answers in any way affected concern-
22 ing your opinion and the reputation, rather, of Mr.
23 Doulin as you testified before by that fact?

24 A Mr. Doulin's reputation stands independent of
25 any question as to how I came to be in this court.

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Reilly - redirect

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Q Thank you.

MR. SCHWARTZ: No further questions, your

Honor.

THE COURT: Thank you. You are excused.

(Witness excused)

MR. PLATZMAN: Monsignor Alexander Markowski.

MONSIGNOR ALEXANDER MARKOWSKI,

called as a witness by the Defendant, being first

duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PLATZMAN:

Q Monsignor Markowski, where do you reside?

A 145 Bankhard Avenue, Newburgh, New York.

Q May I ask your calling, if that is necessary?

A I am a priest of the Catholic church.

Q Which Catholic church is that?

A Saint Francis of Assisi, Newburgh, New York.

Q How long have you been a priest at that church?

A I was there seven years as an assistant,
eleven years as a pastor.

Q Can you tell us substantially what your
activities were prior to that time as a pastor?

A I am a priest nearly forty years. I have
stationed in the city here, I have been stationed in Ossining,

2 New York, Rockland County, New City, New York, been in
3 Newburgh seven years and came back another eleven years.

4 Q When were you ordained?

5 A 1936.

6 Q You have continuously served during that
7 time?

8 A I have.

9 Q Do you know Mr. Doulin?

10 A I have known him for over twenty-some-odd
11 years.

12 Q Can you tell us the circumstances under which
13 you first met Mr. Doulin?

14 A It happened that a young child died and I
15 happened to be Polish. They were Polish; did
16 not know English. The State Police would ask me if I
17 would help have the baby buried. The only undertaker I
18 knew at the time -- I was new in town -- was Mr. Doulin.

19 I explained the circumstances. They had no
20 money, couldn't speak English. So he volunteered to
21 take care of the burial. That was my first occasion on
22 meeting him.

23 THE COURT: How long ago was that?

24 THE WITNESS: I would say about twenty-two
25 years ago.

1 Q Since that time did you maintain a friendship
2 and relationship with Mr. Doulin?
3

4 A I happen to be elected Chaplan of the Elks
5 in Newburgh. I have met him there on different occasions.
6 After coming back I have met him as Police Chaplan. In
7 the City of Newburgh I'm Police Chaplan.

8 On different occasions I invited him to speak
9 to our women's club, our Holy Name Breakfast, different
10 occasions. He happened to be at that time a member of
11 the City Council. Every time they have a funeral --
12 there are five or six undertakers -- but the family
13 pciks the undertaken. Whenever they pick him, I would
14 be down at the funeral parlor for the wake. I met him at
15 different other social occasions.

16 Q Can you tell us some of these other occasions
17 when you had occasion to meet Mr. Doulin?

18 MR. JOSSEN: Objection, your Honor.

19 THE COURT: Sustained.

20 Q Do you know his family?

21 A I know his family very well. I know his two
22 daughters. They have been married fifty years. I have
23 been invited to say the opening prayer at the Golden
24 Jubilee celebration. I have baptized his grandchildren.
25 I have been at other occasions where families gather together.

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Markowski - direct

1060

Q Do you see his wife in the courtroom?

A I surely do.

Q Is that the young lady --

A She is sitting in the center there, the first row on the left.

Q Do you know many of the people that are friendly and know Mr. Doulin?

A I have been in Newburgh twenty-two years. I never became actively involved in politics. As a priest you are not supposed to.

MR. JOSSEN: Objection as not responsive, your Honor.

THE COURT: Yes. I will strike that.

Q Are you active in politics?

A Not in politics at all. I go -- for example, they ask me to give an invocation, both Democrats and Republicans, whenever they have their annual dinner, things like that, as a priest. Being there longer than any other priest, they somehow or other stick to me. I don't know why.

Q That's the extent of your political affiliation?

A That's the only extent. I never get involved in politics.

Q Other than the question of politics, do you

1 gwjw 24

Markowski - direct

1061

2 know any of the people that are known to Mr. Doulin?

3 A I know both those of the Republican party
4 and the Democratic party, being there so long. I know
5 the chairman of the Republican party, I know the chairman
6 of the Democratic party.

7 MR. JOSSEN: Objection, your Honor. It is
8 not responsive.

THE COURT: I will let it stand.

1 GWmch

Markowski-direct

1062

Q Are you familiar and do you know many people in the Newburgh area?

A Newburgh is a relatively small town. I would say I know ninety percent of the 20,000 people there.

Q Do you know what the population is?

A Now it is 20,000. When I first came it was 30,000.

Q Do you know the reputation of Mr. Doulin in the community with respect to honesty?

MR. JOSSEN: Objection as to form, your Honor.

THE COURT: He can answer that yes or no.

I will permit it.

A I know his reputation, yes.

Q And can you tell us what that reputation is?

A To the best of my knowledge, a perfect reputation. To the best of my knowledge, very good reputation.

Q Could you describe it in any fashion other than your statement that it is the best?

MR. JOSSEN: Objection, your Honor.

THE COURT: He said "perfect reputation," and then he said something about the best. I don't know. that you really want a description beyond that.

MR. PLATZMAN: All right.

Q Do you know his reputation for truthfulness in

1 2 GwMch

Markowski-direct/cross

2 the community?

3 A I think he has the best record. Even his enemies
4 claim they have nothing against him. They are against
5 him in politics, but they can't find anything he has
6 ever done wrong. In all my life that I have ever been
7 up in Newburgh, I never heard one person say he would do
8 anything that was wrong as regards the laws of God.

9 I don't know much about politics, but he is known
10 as a truthful man, aboveboard in everything.

11 MR. PLATZMAN: Thank you very much.

12 CROSS-EXAMINATION

13 BY MR. JOSSEN:

14 Q Monsignor, have you heard anything disfavorable
15 or unfavorable about Mr. Doulin's reputation for honesty
16 and integrity in the community?

17 A Never.

18 Q Never at all?

19 A Never at all.

20 Q Do you know a man by the name of Red Skipwith?

21 A I just know -- no, I don't know him personally.

22 MR. PLATZMAN: I will object to this line.

23 THE COURT: He says he doesn't know him personally.

24 THE WITNESS: I don't know him personally.

25 THE COURT: We will see what the next question is.

Markowski-CROSS

3 GWmch

1 Q You have never met Mr. Skipwith?

2 A I am telling you I am in Newburgh 22 years.

3 I meet him, say, in a vegetable store, I meet him, say,
4 at a Republican dinner, he might be there. On occasions
5 like that.

6 THE COURT: "Him" being who?

7 THE WITNESS: Mr. Skipwith.

8 Q Monsignor, have you heard that there has been
9 testimony in this trial that Mr. Doulin was the recipient
10 of a payoff of \$1,480 from Mrs. Grant?

11 A I heard it. I definitely know that that's wrong.

12 Q You definitely know that it's wrong, sir?

13 A Because of other occasions where I have been
14 present where people offered him money and he refused.
15 He never could be bought.

16 Q Do you have any personal knowledge with respect
17 to the allegations in this case?

18 A Not in this case, no.

19 Q But you definitely know that it's wrong, is
20 that correct, sir?

21 A I know that he refused -- his reputation is you
22 never could buy him.

23 MR. JOSSEN: No further questions.

24 MR. PLATZMAN: I have no further questions.

25

1 4 Gwmch

2 THE COURT: Thank you very much.

3 (Witness excused)

4 MR. PLATZMAN: May we approach the side bar?

5 THE COURT: Yes.

6 (At the side bar)

7 MR. PLATZMAN: I have asked the remaining
8 witnesses, character witnesses, to be in at 2:00 o'clock.
9 I intend to put Mr. Doulin on the witness stand. I didn't
10 want to start with him now and then break it. I will
11 have to break when other witnesses come in.

12 May I suggest we break now and I can make my
13 application for continuance?

14 THE COURT: It's 12:20. I would be willing
15 to break at this time and tell the jury to be back in
16 an hour. The weather is inclement.

17 I am certain, from my past experience with them,
18 that they will be anxious to proceed to hear the case.
19 I could accommodate you until 1:30, but it would seem at
20 this juncture that if you have other character witnesses
21 coming at 2:00, unless you could move them up --

22 MR. PLATZMAN: There is a possibility they may
23 be here at 1:30. They are traveling from upstate. So
24 they may be here by that time. At least, hopefully, one
25 might be.

1 5 GWmch

2 THE COURT: I would expect you would be prepared
3 to start either with your character witnesses or with
4 Mr. Doulin when we return from the recess.

5 MR. PLATZMAN: All right.

6 THE COURT: Does the Government want to state
7 anything at this time relative to the application of
8 counsel?

9 MR. SCHWARTZ: No, your Honor, whatever is
10 convenient for the Court is fine.

11 THE COURT: I would suggest, unless you wish to
12 proceed with Mr. Doulin at this time, that I am prepared
13 to recess now at 12:20 and I would be willing to recess
14 until 1:30.

15 MR. PLATZMAN: Thank you very much.

16 THE COURT: I will excuse the jury and then I
17 will hear your application.

18 Is there anything further we can or should be
19 doing before I excuse the jury?

20 MR. SCHWARTZ: Nothing that I can think of,
21 your Honor.

22 MR. PLATZMAN: I just have one question and
23 answer of the minutes. I went through that. It is very
24 minor. I might read it in, the preliminary portion.
25 I will read that question and answer. I can do that.

1 6 GWmch

2 MR. SCHWARTZ: You mean the transcript?

3 MR. PLATZMAN: Yes, one question. I can read
4 that and maybe dispose of that.

5 THE COURT: Something has just been brought to
6 my attention by Miss Kruger. Juror No. 7 indicated to
7 her that he knows Monsignor Markowski. I mention that.
8 That has been brought to my attention just this moment.
9 I mention it to you gentlemen.

10 MR. SCHWARTZ: May we thing about that and discuss
11 it after luncheon?

12 THE COURT: Yes. That is why I told you about it
13 as soon as the information became known to me. I know
14 no more than that. He indicated to Miss Kruger he knew
15 Father Markowski.

16 Off the record.

17 (Discussion off the record)

18 MR. PLATZMAN: I will let it go. It has been
19 covered in other areas.

20 THE COURT: Then I will excuse the jury now for
21 lunch and direct that they return to resume hearing the
22 case at 1:30.

23 (In open court)

24 THE COURT: Ladies and gentlemen, I have conferred
25 with counsel. It's going on 12:25 p.m. and they suggest

1 7 GWmch

2 tome that they find it a convenient time to take the
3 luncheon recess. I accede to their suggestion.

4 Therefore, we will take our luncheon recess at
5 this time and will resume the hearing of this case at
6 1:30 p.m. It is now 12:25. So that gives you approximately
7 an hour and five minutes for lunch.

8 Please do not discuss this case among yourselves,
9 do not remain within the presence of any other person
10 who may be discussing the case, and keep an open mind on
11 all facets of the case until the case has been concluded
12 and given to you following my charge.

13 The jury is excused for lunch. You are directed
14 to return at 1:30 p.m.

15 Enjoy your lunch.

16 (The jury leaves the courtroom.)

17 THE COURT: Let the record reflect that the jury
18 has been excused for lunch.

19 Mr. Platzman, you indicated that you wished to
20 make an application when the jury was excused for the
21 luncheon recess. You may proceed.

22 MR. PLATZMAN: May it please the Court, at this
23 time the defendant would like to move for a continuance
24 of this action and not for any extended period of time
25 but for a few days. In that regard I ask the Court o

1 8 Gwmch

2 seriously consider the very serious nature of these
3 charges and the severe problem that I have been confronted
4 with in attempting to adequately defend Mr. Doulin.

5 Your Honor may recall, and I am not going to
6 repeat completely what we discussed at the time of the
7 argument of the original motions and the time we were called
8 for trial, your Honor may recall, and I will just briefly
9 refer to them, that Mr. Doulin was represented by Mr.
10 Rosenblum. I was associated with Mr. Rosenblum in
11 connection with some of the legal matters that were involved.
12 I was asked to prepare motion papers concerning disclosure,
13 I did the research, prepared a brief.

14 I was also asked that when the time came I would
15 assist him at the trial, as I would perhaps assist him
16 in the preparation. But the general in this case was
17 Mr. Rosenblum.

18 As your Honor has been in practice for many years
19 and is an experience trial lawyer in addition to being a
20 member of the bench, a learned Justice of this Court, you
21 certainly know there is a very substantial difference
22 between being the general, the fellow who tries the
23 case, and the fellow who sits alongside of him and hands
24 him his papers.

25 Hence, when I started this case, I didn't have

1 9 Gwmch

2 the adequate preparation that I think is so essential in
3 a case so critical and so important.

4 What has exacerbated the problem has been,
5 in addition, the lack of complete disclosure, the witnesses,
6 the proof, the claims that were going to be made, the
7 identity of the people allegedly involved as to which
8 the defendant Doulin presumably lied when he referred to
9 nobody or anybody in the grand jury minutes. That
10 standing alone might sometimes be able to be coped with,
11 but in combination with the problem that I have mentioned,
12 it heightens the difficulty.

13 It has also been exacerbated by the fact that
14 daily we have received 3500 material, testimony, exhibits,
15 some of which I haven't even read yet, I haven't even
16 looked at it, making it very difficult to properly prepare
17 for the cross-examination of a witness, making it very
18 difficult to determine what I have to do for a witness.

19 Counsel complained yesterday, as I recall, that
20 I had served the Federal Bureau of Investigation with
21 a subpoena at the so-called last hour. I think that I was
22 lucky to even have been able to do that.

23 I accept the fact that it probably was unneces-
24 sary, that I could have asked counsel. But it is only a
25 symptom of the fact that I am overwhelmed with the tremendous

1 10 Gwmch

2 volume of effort that has to go into this case. We were
3 supposed to have received some documents the Monday
4 following the argument of the motions. We didn't even get
5 those timely. As to one file, I still don't even have
6 them because there was some error in duplicating them up
7 in counsel's office. I think it was by error, it was not
8 intentional, but it is still a fact the wrong file was
9 duplicated, a file we already had.

10 Also, the furnishing of this data is only
11 theoretically a disclosure, particularly when great
12 volumes are suddenly thrust upon me without an indication
13 as to which really were going to be used and which weren't.

14 As an example, a tremendous volume of newspaper
15 clippings was supplied. None of them were used. I don't
16 say counsel had to use them. But by doing so, by increasing
17 the numbers that I had to look at and examine to see
18 whether they could possibly be relevant, I could not engage
19 in the game of Russian roulette and decide this is what
20 counsel is going to look at, and you could examine the
21 argument as to its absurdity.

22 If he gave me a roomful of documents and said,
23 "Look at them, this is disclosure," it becomes theoretical.

24 The quantitative change of the number of documents
25 which I was required to examine and absorb and determine

1 11 GwmcH

2 their relevancy became a qualitative change when it
3 reached a level that made it physically impossible to do so.

4 I have, frankly, at this point been completely,
5 physically overwhelmed. I have worked every single night
6 until all hours of the morning. I did not get to bed this
7 morning until almost 5:00 a.m. and I still haven't absorbed
8 the material, and this was following the day before at
9 2:00 or 2:30, and the days before that certainly never
10 before 12:00 or 1:00 o'clock. I spent the entire weekend.

11 I don't mind that, but there reaches a point where
12 one is almost physically exhausted and I am just about reaching
13 that point now, in light of the burden. I need some time
14 to absorb what has been put into evidence. I need some
15 time to determine exactly how this is to be handled.
16 I need some time to perhaps generate requests to charge,
17 some time to generate my thoughts with respect to possible
18 summation.

19 All of these things, of course, can be done.
20 I do not slacken my efforts in the trial of a case when
21 I have been responsible, and I have tried to measure up
22 to the necessity of this one. But the quantitative effort
23 that has been necessary has degenerated into a qualitative
24 state where I have not been, in my opinion, able to furnish
25 the kind of representation that this defendant is entitled

1 12 GWmch

2 to.

3 I think that balancing the desire for an
4 immediate trial should be considered with balancing the
5 requirement that this defendant be given the fullest
6 opportunity, including a counsel who can stand on his feet
7 at 10:00 or 11:00 o'clock in the morning, and when it
8 reaches a point where that becomes a burden, it becomes
9 difficult sometimes to wonder what is happening in
10 counsel's mind, and I thus urge that, from all points of
11 view, and I have a number of other points I want to
12 raise, if it please the Court, but they are not terribly
13 important, they are essentially along the same lines, I
14 do need some time, and I think in the interests of justice
15 we ought to have a continuance.

16 MR. JOSSEN: Your Honor, the Government opposes
17 defendant's application.

18 First, let me state, your Honor has had an
19 opportunity to observe Mr. Platzman during the conduct of
20 this trial, to observe him conduct cross-examination of
21 witnesses, has heard him make legal argument to the Court.

22 I believe you have seen Mr. Platzman has been
23 able to represent Mr. Doulin ably in that regard.

24 Furthermore, your Honor is also familiar, Mr.
25 Platman has been in the case from the very beginning. Mr.

1 13 GWmch

2 Platzman was the attorney who prepared the initial motion
3 papers on behalf of the defendant. Your Honor heard Mr.
4 Platzman make substantial arguments on the motions before
5 the trial commenced, a week before the trial commenced.

6 With respect to documents, the Government has
7 attempted to make available all documents which the
8 Court has directed it to do. We have turned over 30
9 material long in advance of the conclusion of direct
10 examination of witnesses, and many times the day before.

11 We submit, your Honor, there is no basis for the
12 continuance which the defendant requests here and the
13 application should be denied.

14 MR. PLATZMAN: I would like to add one thing that
15 has been brought to mind by plaintiff's counsel.

16 While he has turned over 3500, I would say that
17 the 3500 would be more applicable to the documents that
18 were perhaps turned over. I couldn't possibly read every-
19 thing, and I say now I haven't read everything.

20 Furthermore, as far as my appearance in the case
21 originally, I stated I did make the motions, but I want to
22 add one additional thing. Mr. Rosenblum didn't even want
23 me to argue the motions. He wanted my preparation of the
24 papers. He stated so. When he was brought to the hospital
25 and then operated upon unexpectedly, it was his intention

1 14 GwmcH

2 to call your Honor and ask for an adjournment until he
3 could get an opportunity to get out of the hospital and
4 a few days for recovery purposes, and after a lot of talk
5 I convinced him that, "No, perhaps this isn't the right
6 thing to do. There is no sense holding this up. There will
7 be plenty of time for you to get back and do everything
8 necessary in the case."

9 So that is the reason I came down to argue that
10 motion.

11 Mr. Rosenblum, under no circumstances, before
12 he was brought to the hospital, wanted me to argue it,
13 and after he was brought to the hospital didn't want me to
14 argue it, and expected that there would be an adjournment
15 of the motion.

16 At the risk of perhaps being repetitious, that's
17 a far cry from being the man who has conditioned himself
18 and acquainted himself with such facts that he should be
19 able to try the case. That was not my role.

20 THE COURT: Thank you, Mr. Platzman.

21 The Court is required here to balance the
22 Government's right to a speedy trial -- pardon me -- the
23 Government's obligation against the defendant's right to
24 a speedy trial, and also to balance the defendant's right
25 to be properly represented at the trial.

1 15 GWMch

2 The indictment here was filed on June 26, 1975,
3 and the defendant with counsel appeared and pleaded not
4 guilty on July 7, 1975, at which time the case was
5 assigned to me. Mr. Platzman entered the case actively
6 about a month later, since I note that the extensive brief
7 submitted in the course of the defendant's various motions
8 which was served early in August bears his name as of
9 counsel. So he became familiar with this case, I would
10 suggest by looking at the brief, at that time.

11 He appears to have prepared some of the additional
12 papers submitted on behalf of Mr. Doulin and appeared
13 before me to argue comprehensive motions at the end of
14 October 1975. At that time, the Court, after having heard
15 him -- this is all in the record -- was of the view that
16 he was, first, fully familiar with the facts of the case
17 and, second, was familiar with the applicable law.

18 At that time the case was set for trial on
19 November 6th, approximately one week thereafter.
20 Counsel made an application at the time the case was set
21 for trial for a continuance and, to my recollection, that
22 application, timely made, was denied by the Court.

23 The trial of this case began on November 6th,
24 and up until the Government rested this morning, was
25 consumed largely with the Government's case. Mr. Platzman,

1 16 GwMch

2 in this Court's view at least, ably and fully cross-
3 examined the various witnesses who were presented. He
4 appeared to the Court to have a familiarity with the
5 background of this case, with the facts of the case, and
6 the relevant law. He continues to exhibit that familiarity
7 up to this very moment.

8 Taking all things into consideration and recog-
9 nizing that he has worked hard, I have no quarrel with
10 his recitation of the late hours that he has been working,
11 because in any major trial it is necessary for trial
12 counsel in this most strenuous profession to extend himself
13 to his physical limits. He has undoubtedly worked hard.

14 We have reached a point in the trial now where
15 we are in the defendant's case. Counsel has requested on
16 general grounds that he receive -- that he be granted a
17 continuance. I would note that the case is nearing its
18 conclusion, and I would expect that counsel's endurance
19 would permit him to continue his vigorous representation
20 of his client until the conclusion of the case.

21 I would note also that we have a jury empaneled
22 here who, as you know, is presently sitting beyond its term.
23 If the jury were to be held over for several days, we
24 have all of the problems which come from taking a jury and
25 holding it for an additional time, which, frankly, under

2 the circumstances, can cause problems for both the jurors
3 and for the Court.

4 Accordingly, and in view of the fact that this
5 is a matter within the Court's discretion, and having
6 considered all of the circumstances, including, as I have
7 said, the Government's right to a trial, the defendant's
8 right to have his cause speedily adjudicated, and his most
9 important right to be adequately and effectively represented
10 by counsel, I believe in the interest of all these
11 things it is necessary, and I do within my discretion, deny
12 the motion for a continuance.

13 We will resume at 1:30 p.m.

14 MR. SCHWARTZ: Thank you, your Honor.

15 (Luncheon recess)
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2 A F T E R N O O N S E S S I O N

3 1:30 P.M.

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5 (In open court - jury present)

6
7 THE COURT: Good afternoon, ladies and
8 gentlemen.

9 Mr. Platzman.

10 MR. PLATZMAN: May I call Mr. Malcolm Wilson,
11 please.

12 M A L C O L M W I L S O N , called as a
13 witness by the Defendant, being first duly sworn,
14 testified as follows:

15 THE COURT: You may proceed, Mr. Platzman.

16 MR. PLATZMAN: Thank you, sir.

17 DIRECT EXAMINATION

18 BY MR. PLATZMAN:

19 Q Mr. Wilson, where do you reside?

20 A I live in Yonkers, New York.

21 Q How long have you lived in Yonkers?

22 A For fifty years.

23 Q What is your profession?

24 A I am a member of the Bar, practicing lawyer
25 since 1936.

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Wilson - direct

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Q Have you held public office?

A I have. For twenty years I was a member of the New York State Assembly, one of the two houses of our State Legislature, elected from my district in Yonkers.

Q When were you elected from Yonkers as an assemblyman?

A First election was 1938. Then in 1958 I ran and was elected lieutenant governor. Nelson Rockefeller was elected governor and I was elected lieutenant governor and that occurred again in 1962, 1966 and 1970.

Q That was how many terms in all? Four?

A Well, it was four terms, but on December 18, 1973 Governor Rockefeller resigned as governor and under the provisions of the Constitution I then became governor and served as governor until December 31, 1974.

I was a candidate for that office, but the voters made another choice in November of 1974.

Q Can you tell us, Mr. Wilson, what other affiliations you had other than what you have mentioned?

A Well, I have been an active member of the Westchester County Bar Association. When I was in the legislature I served for a number of years on the old Judicial Conference, which has since become the Judicial -- Judicial Council at that time. It is now the Judicial

Wilson - direct

1 gwjw

2 Conference.

3 I served for --

4 Q What is this Judicial Conference?

5 A Well, the Judicial Conference was a body which
6 was made up of judges and legislatures and private
7 citizens who had general oversight of the conduct of the
8 judicial system.

9 Q What were the duties of this body?

10 A I would just have to say that it was general
11 oversight to discern whether there were any evidences of
12 incorrect conduct on the part of any men or women in the
13 judicial system, to make recommendations to the disciplinary
14 bodies, who were the Appellate Divisions in the state, and
15 also to make recommendations to the legislature for any
16 changes in the law which might appear indicated.

17 Q Do I gather that its monitoring obligations
18 concerned itself with the behavior of members of the Bar
19 and the monitoring of their conduct?

20 A Members of the Bar and members of the whole
21 justice system. That would be judges, jurors, court
22 personnel, district attorneys and I think that would
23 comprehend it all.

24 Q Yes.

25 Were you affiliated with any other groups?

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Wilson - direct

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A Well, I was a member for several years of the Law Revision Commission which did not have any supervisory function insofar as the administration of justice is concerned, but rather dealt with recommendations relating to the lawyers' tools of practice, changes which might appear to be desirable, at least in the view of the members of the Commission, in the criminal statutes of our state, the penal law, the Code of Criminal Procedure and in the civil area, what we used to call the Civil Practice Act, which has been superseded by another statute since then.

I have been, of course, actively affiliated with a number of fraternal and charitable organizations down through the years and educational.

I was a member until I resigned -- I resigned many posts when I became governor because of the circumstance that in today's world there is scarcely any activity which doesn't receive taxpayer funds, state funds.

I was a member of the Board of Trustees at that time of Fordham University, of Kirkland College up in Clinton, New York, of Saint Francis College in Brooklyn and Mercy College in Dobbs Ferry.

I was vice-president, had been for many years,

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Wilson - direct

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2 of the Yonkers General Hospital, which is a volunteer
3 hospital in my home city.

4 Over the years it would be quite a long litany.

5 Q Generally they fell into those categories?

6 A Educational, charitable I would say, yes.

7 No business corporations or activities of any kind.

8 Q Do you know Mr. Doulin?

9 A I do.

10 Q How long have you known Mr. Doulin?

11 A I met him first I would say -- it's hard to
12 fix the precise year. It would be, I believe, in 1955
13 or 1956. The occasion -- why it's difficult for me to
14 fix the date, the occasion was my participation in a
15 Communion Breakfast which was sponsored by one of the
16 societies affiliated with the Sacred Heart Church in
17 Newburgh. I was the speaker on that occasion and I met
18 Bill Doulin then for the first time.

19 At that time, if my memory serves me correctly,
20 he was a member of the Common Council of the City of
21 Newburgh, the local governing body and he and other public
22 officials, including the assemblyman and the senator, were
23 present on that occasion.

24 Q What was your position at that time?

25 A At that time I was a member of the New York

Wilson - direct

1 gwjw

2 State Assembly.

3 Q Did you have occasion to see Mr. Doulin
4 after that initial meeting?

5 A Yes. I --

6 MR. SCHWARTZ: Objection, your Honor.

7 THE COURT: Overruled.

8 A Yes, I saw Mr. Doulin many times thereafter.
9 It would be very difficult to place a number on the times
10 because there came a time when Mr. Doulin --

11 THE COURT: I think the question has been
12 responded to.

13 THE WITNESS: Thank you, Judge.

14 Q Do you know the members of his family or any
15 of the members of his family?

16 A I know his wife Emma.

17 Q Can you point her out in the courtroom?

18 A Yes. She sits right down there in the front
19 row in that orange checked suit.

20 Q Over the years, Mr. Wilson, have you had
21 occasion to know and meet people who likewise knew and
22 met Mr. Doulin?

23 A I have.

24 Q Are you familiar with and acquainted with a
25 great many people in your experience?

Wilson - direct

gwjw

1
2 A Yes, sir.

3 Q Have you had occasion to meet with Mr.

4 Doulin or his family on social occasions?

5 A Yes, sir.

6 Q Including other people?

7 A Yes, sir.

8 Q Can you name some of them?

9 MR. SCHWARTZ: Objection, your Honor.

10 THE COURT: Sustained.

11 Q Mr. Wilson, do you know Mr. Doulin's reputation --

12 A Yes, sir.

13 Q -- in the community with respect to honesty?

14 A Yes, sir.

15 Q Can you in your best description tell us what
16 you believe that and what you know that reputation to be?

17 MR. SCHWARTZ: Objection, your Honor. The
18 community hasn't been established.

19 THE COURT: I would suggest that if you wish,
20 I will have counsel go back and establish it.

21 We know that Mr. Wilson has visited in the
22 Newburgh area. He has indicated that.

23 Do you know his reputation in Newburgh and
24 in Orange County?

25 THE WITNESS: I do, your Honor.

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Wilson - direct

1086

Q Can you tell us what that reputation is?

A Excellent.

Q What about throughout the state, as far as you know?

A Excellent.

Q Can you tell us whether you know what his reputation was in the community, Newburgh, Orange County, with respect to truthfulness?

A I can.

Q What was that?

A A man of total veracity, a man whose word was his bond.

Q What about with respect to truthfulness in this same area?

THE COURT: I thought that was already covered.

MR. PLATZMAN: I'm sorry.

Q What about with respect to the State of New York, throughout the state?

A In the settings of statewide community in which Mr. Doulin and I have moved, which would mainly be in a political setting of a major political party, his reputation for probity is excellent.

Q What was his reputation in Republican circles,

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gwjw Wilson - direct/cross 1087

in political circles?

A You mentioned it. That is the party to which I adverted, Mr. Platzman.

MR. PLATZMAN: I have no other questions.

MR. SCHWARTZ: May I, your Honor?

THE COURT: Yes, you may proceed, Mr. Schwartz.

CROSS EXAMINATION

BY MR. SCHWARTZ:

Q Mr. Wilson, are you at all familiar with the facts of the case involved in this criminal prosecution?

A I am not, sir.

Q Do you know anything about them?

A I do not.

Q Not a thing?

A I do not.

Q In 1974 when you ran for the governorship, did you carry Orange County?

A I'm ashamed to say that I am not certain. I believe I did, but I could not say with certainty.

Q Has Mr. Doulin ever nominated you for the position of lieutenant governor?

A I think that he never placed my name in nomination. It is possible that on one of the occasions

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Wilson - cross

1088

of a state convention, one or more, he may have been one of
severa' who seconded my nomination.

Q Do you know a Judge John Reilly appointed
to the Court of Claims?

A I do, sir. As a matter of fact, I appointed
him to the Court of Claims when I was governor.

Q Did anyone recommend him to you or to your
office for appointment?

A Yes, a great many people recommended John
Reilly, whom I have known --

Q Excuse me. I have only asked whether people
have recommended him.

A Yes, sir.

Q They did?

A Yes, sir.

Q Was Mr. Doulin one of those persons?

A I have no recollection and I consider it
unlikely because the way the recommendations --

MR. SCHWARTZ: I don't want to interrupt the
witness, but I have the answer. If he wants to explain
it, Mr. Platzman can ask him.

THE COURT: At the moment the record stands
that Mr. Wilson has no recollection clearly on the subject;
is that correct?

1 gwjw

Wilson - cross

1089

2 THE WITNESS: I was about to say that I would
3 be unlikely to have any, your Honor, because the way
4 recommendations for judicial posts go, they go through
5 council to the governor and not directly to the governor.

6 MR. SCHWARTZ: May I ask something then in
7 connection with that?

8 THE COURT: Yes, of course.

9 Q Who, if you know, contacts the counsel for the
10 governor to make the recommendation?

11 A Aspirants for the post bar associations,
12 political leaders, members of the legislature and public
13 officials who are aware of the talents of various aspirants
14 for consideration.

15 Q Including county chairmen?

16 A Normally the county chairman of the county of
17 residence of the aspirant makes a recommendation to
18 governor's council. Judge Reilly is a resident of Rockland
19 County. The chairman of Rockland County is Dr. Carmine
20 Freda.

21 MR. SCHWARTZ: No further questions.

22 MR. PLATZMAN: Thank you very much.

23 THE COURT: Thank you very much, sir.

24 (Witness excused)

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Doulin-direct

W I L L I A M E. D O U L I N, the

defendant, called as a witness on his own behalf,

being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. PLATZMAN:

Q Mr. Doulin, where do you reside?

A 318 North Montgomery Street, Newburgh, New York.

Q Are you the defendant in this action?

A Yes.

Q How long have you lived at that address?

A 45 years.

Q Can you tell us where you were born?

A Newburgh.

Q How old are you?

A 72.

Q When was your birthday?

A Last Friday.

Q Where did your parents live?

A Where they lived?

Q Yes.

A Born and brought up in Newburgh.

Q They were born there, too?

A Yes.

Q Where were you married?

1 2 GWMch Doulin-direct

2 A Newburgh.

3 Q When were you married?

4 A June 17, 1923.

5 Q Is your wife in the courtroom?

6 A Yes, she is.

7 Q Would you point her out, please?

8 (Witness points)

9 A The ladie with the pink outfit on.

10 Q Do you have any children?

11 A Yes, I have two daughters of my own and one

12 adopted daughter.

13 Q What are their names?

14 A One's name is Patricia, Nancy and Rita.

15 Q Which one is the adopted daughter?

16 A Rita.

17 Q Are any of them married?

18 A They are all married. Rita is a widow.

19 Q Do you have any grandchildren?

20 A Yes, I have eight now. Lost one.

21 Q Which daughter had which children, if I may ask?

22 A Rita, the widow, has four; Patricia has two,

23 and Nancy has two.

24 Q What business are you in, Mr. Doulin?

25 A I am a funeral director.

1 3 GwMch

Doulin-direct

2 Q And how long have you been a funeral director?

3 A About 47 years.

4 Q And where do you conduct your business?

5 A 318 North Montgomery Street, under my home.

6 Q So your business is on the lower level and you
7 live up above the store?

8 A Yes.

9 THE COURT: Is that a store or a house?

10 THE WITNESS: It's a house, a real old house, big
11 house. The funeral parlor is on the ground floor and my
12 home is upstairs.

13 Q How long have you been conducting a funeral
14 business at that address?

15 A Well, I'd say about 40 years, 45 years. Since
16 1903. I have to add it up.

17 Q Can you tell us what kind of an establishment it
18 is? How many people do you employ?

19 A I have one man who works for me steady, and I
20 have another man who is known as a trade man, who comes in
21 and conducts funerals when I'm busy and does embalming.

22 Q So that you have one steady employee?

23 A Yes.

24 Q And do you work at this trade yourself?

25 A Yes.

1 4 GwMch

Doulin-direct

2 Q And what do you do?

3 A I conduct funerals, meet the people, arrange
4 funerals, take them in the showroom, which is in the
5 basement of my home, and take them to the cemeteries,
6 help them pick out plots, and then I go to the churches
7 and conduct the funerals.

8 Q As a result of this business, have you had an
9 opportunity of meeting with and knowing a great many
10 people in the area?

11 A Yes, many people.

12 Q Do you know what the population of Newburgh is?

13 A Newburgh is now about 27,000. It was 32,000 and
14 went down to 27,000.

15 Q Do you know a great many people in Newburgh?

16 A I know most of the people in Newburgh and they
17 know me.

18 Q How about in Orange County?

19 A Orange County, I know many people, but I am not
20 known as well throughout the county as I would be in the
21 city.

22 Q Prior to your being in the funeral business,
23 were you in any other business or any other activity?

24 A Well, I was in the city fire department for 27
25 years, and while I was in the city fire department I

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Doulin-direct

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retired in 1950. I don't want you to get the dates mixed up, because I was also in the funeral business. I was in the fire department. I retired in 1950 as a lieutenant and in 1951 I ran for the city council. I was elected three consecutive terms, four years each.

Before that, while I was in the fire department and also in the undertaking business, I was president of the volunteer firemen's association and I was coroner of Orange County, which is an elected office. It isn't like here, where you have medical examiners. The coroner can be a layman and he is elected to office, and I was elected four times to the office of coroner.

I resigned that when I was elected to the city council.

Q When you were working as a fireman, were you also conducting the funeral business?

A Yes, I was.

Q Were you working at both jobs?

A I worked at three jobs. I was coroner, lieutenant in the fire department and a funeral director.

Q Are you still a member of the volunteer fire department?

A Yes, I am president of one of the volunteer fire companies.

1 6 GWMch

Doulin-direct

2 Q Are you active in that?

3 A Well, it's inactive because we have a paid
4 department. I still remain as a volunteer fireman but
5 we only go on what they call a 9/9. It's really a very
6 bad emergency.

7 Q When you were in the council, did you still
8 work in the funeral business?

9 A Yes.

10 Q And how many years were you in the council?

11 A Eleven years. I resigned the last year because
12 I became county chairman.

13 Q What was your annual salary in the council?

14 A When I first started it was \$500 a year, and then
15 it went to \$750.

16 Q When you worked as a fireman, what was your
17 salary as a fireman?

18 A I started in 1926 at \$1,300, and then when I
19 retired I was a lieutenant, it was \$3,750 a year.

20 Q A year?

21 A Yes.

22 Q And you maintained that job and worked at it;
23 is that correct?

24 A That's right.

25 Q What was your education, Mr. Doulin?

1 7 GWmch

Doulin-direct

2 A Six years in St. Mary's School in Newburgh.

3 Q Is that elementary school?

4 A Elementary school.

5 Q What happened after the sixth year?

6 A We had thirteen kids, and I went to work.

7 Q And, to the best of your recollection, what
8 was the first substantial job that you held?

9 A Fire department.

10 Q So that essentially you started out in your
11 adult activity as a fireman?

12 A Well, I started before that. I was on a bakery
13 wagon.

14 Q What?

15 A I was on a bakery wagon. I was delivering bread
16 and bakery goods, and while I was on that I took the
17 examination for fire department. I came out first in the
18 examination, and then was appointed to the fire department.

19 THE COURT: That was in 1926?

20 THE WITNESS: 1926, yes.

21 THE COURT: So you were about 23 years old?

22 THE WITNESS: About that.

23 Q Were there any other jobs or positions that you
24 held during your career that you can tell us about?

25 A Well, I can't recall any others. I worked for

1 8 GwMch

Doulin-direct

2 various factories before I went onto the bread wagon.
3 I worked in what they called Abendoth & Root, and they
made spiral pipe. It is like a sewer pipe. I worked there.

5 I worked in the Tow-Well Lawn Mower Company,
6 the biggest makers of lawn mowers in the world.

7 From there I went to the bread wagon.

8 Q Did there come a time when your activities also
9 included political activities?

10 A Yes, when I ran for coroner. I was a member
11 of the Republican party. I asked for the endorsement and
12 I recieved it, and on primary day my name was written
13 in throughout the county on the Democratic party, and I was
14 nominated on that party, so on election day I didn't have
15 any opposition for coroner.

16 Q I don't quite recall, how many years were you
17 a coroner?

18 A Twelve years.

19 Q Did you also run for any position or office within
20 the Republican party?

21 A Yes. I was city chairman of the City of
22 Newburgh about eight years, I guess. I am not quite sure
23 of the years, but up until the time I went into the city
24 council; so there wouldn't be a conflict of interest,
25 I resigned as chairman to take the position on the council.

1 9 GWmch

Doulin-direct

2 Q Were you at any time a committee man?

3 A Yes.

4 Q Of the Republican party?

5 A Yes, I have been a committee man for 45 years.

6 Q When did you first become a committee man?

7 A I would say maybe about 1928, '29.

8 Q And what is a committee man?

9 A A committee man is a man or woman who is elected
10 in his own district to represent the people. He is
11 elected by the people in his district to represent them at
12 all political caucuses held by the party of which he is
13 a member.

14 Now, the Democrats have two committee men in each
15 district and the Republicans have two, and the Democrats
16 are elected by enrolled Democrats, the Republicans are
17 elected by enrolled Republicans, to be committee men.
18 You are the representative of your district.

19 Q And your selection there is by actual vote or
20 election?

21 A Public vote in your own district by the people.

22 Q By all of those enrolled in that party who live
23 in that district?

24 A All registered voters, yes.

25 Q And you were first elected to that position about

1 10 GWmch

Doulin-direct

2 when -- 1928, you say?

3 A About that, yes.

4 Q Did you attend meetings of the committee?

5 A Oh, yes.

6 Q And how are these meetings held, how are they
7 called, what is their purpose?

8 A These meetings are called by the secretary at
9 the direction of the chairman. You call a meeting at
10 a certain night and you go to the meeting and you do --
11 you have about four meetings a year, maybe, as a committee
12 man, and then they do whatever business they have.

13 Sometimes during the year there isn't anything
14 to do until it comes time for an election, when people
15 come in and ask for your endorsement of the committee,
16 like for city council.

17 The county committee has nothing to do with the
18 endorsement of city jobs or village or towns. That is done
19 by the individual committee.

20 For instance, if you want to run for councilman
21 in the City of Newburgh, you don't go to the Orange
22 County Republican committee, you go to the branch of the
23 Orange County Republican committee in the City of Newburgh,
24 which consists of 44 people. You ask for their endorsement.
25 If they endorse you, of course, it's easier for you to be

1 11 GWmch Doulin-direct

2 elected because you have 44 people working for you and
3 they get petitions filled.

4 The duty of a committee man is to get petitions
5 signed, go door to door, get names for your petition,
6 and this is the general duties of a committee man.

7 Q This is part of the election process within
8 the community?

9 A Oh, yes.

10 Q Did there come a time when you ran for office
11 in the committee, for some position within the committee?

12 A I ran for city chairman. I was elected. I was
13 chairman in the city for about eight years, and then I
14 went in the city council.

15 After I was in the city council for eleven years,
16 I was also a member of the executive committee. Now, each
17 branch of a committee has a right to select a representative
18 in the executive committee. You are a member of that
19 executive committee.

20 For instance, Newburgh being the population that
21 it is, the biggest city in the whole county, they are
22 entitled to two executive members. A little place like
23 Montgomery or Walton, they have one. Altogether there are
24 about 21. They have one.

25 Now, Middletown, being as big as Newburgh now,

1 12 GWmch Doulin-direct

2 they have two. Port Jervis has two.

3 As a town grows bigger and gets more districts,
4 then they are entitled to more members on the executive
5 committee.

6 Q It is proportionate to the population in the
7 same way we have assembly districts and senatorial and
8 congressional?

9 A Same thing.

10 Q And this is true for the Democrats as well as
11 the Republicans?

12 A Oh, yes.

13 Q Where is your funeral home located, again?

14 A 318 North Montgomery Street.

15 Q Is it on Grand Street?

16 A No. There are two other funeral homes on Grand
17 Street, name of Powell, one of them, and the other is John
18 White. They are both on Grand Street.

19 There is another funeral home on Grand Avenue,
20 but my funeral home is on North Montgomery Street.

21 Q Does Montgomery Street cross Grand Street or
22 Grand Avenue at all?

23 A No. Montgomery Street runs parallel with
24 Grand, two blocks away.

25 Q Two blocks away from it?

2 A Yes.

3 Q If anyone stated they saw you in a funeral home on
4 Grand Street or Grand Avenue or near Grand Street or
5 Grand Avenue, would that be correct?

6 MR. SCHWARTZ: Objection.

7 A That would be wrong.

8 THE COURT: Sustained.

9 MR. SCHWARTZ: I ask the answer be stricken.

10 THE COURT: Strike it. The jury will disregard
11 the last answer.

12 Q Following your position as chairman of the
13 council, did there come a time you ran for another
14 office?

15 A I ran for chairman, county chairman. You have
16 to be a member of the committee to be county chairman.

17 Q Does the committee also have an executive
18 committee?

19 A Yes.

20 Q Were you ever a member of the executive committee?

21 A Yes, I was.

22 Q When for the first time were you a member of
23 the executive committee?

24 A When I was city chairman by virtue in Newburgh,
25 by virtue of being the chairman, they let you be a member

2 of the executive committee.

3 Q I don't quite recall whether I asked you when you
4 ran for office of chairman of the county committee.

5 A The first time I ran was twelve years ago.

6 Q Do you recall whether that was a competitive
7 election?

8 A Yes. I ran against a man by the name of Ronald
9 Dutcher, who was -- who works for the school board,
10 finance officer.

11 (Continued on next page)

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Doulin - direct

1104

2 Q How were you elected? What was the process
3 by which you were elected as chairman?

4 A Well, the full committee meets either by person
5 or proxy and then you are -- you run for the office of
6 chairman and second vice-chairman, treasurer and secretary
7 and the 410 committeemen --

8 Q What were the number of committeemen at that
9 time?

10 A The last time it was 410. It went from 396
11 to 410. As you create a new district, there's two more
12 committeemen added to it.

13 Q What about when you ran for chairman of the
14 committee, how many committeemen were there?

15 A When I first ran?

16 Q Yes.

17 A I imagine at that time there was around
18 200 -- 390.

19 Q 309?

20 A Yes.

21 Q You received a majority vote?

22 A Yes.

23 Q At the time of that election?

24 A Yes, I was elected.

25 Q What is the term of office of a committee

1 gwjw 2

Doulin - direct

1105

2 chairman?

3 A Two years.

4 Q After the expiration of your term of office,
5 did you run for re-election?

6 A I was elected five times after that without
7 any opposition.

8 Q When was the last time that you were elected?

9 A Right last month, right after September -- after
10 the September primary. The committee is selected by the
11 voters in September. After the primary you have by law a
12 twenty day period that you must call a reorganization
13 meeting of the committee. We called that within the twenty
14 days. Then I ran for chairman and this time I had opposition.

15 Q Who ran against you in your race for county
16 chairman at this last September?

17 A An attorney by the name of Andrew Mauriello,
18 who was Assistant D.A. for about nine years.

19 Q Who nominated Mr. Mauriello?

20 A He was nominated by the former district
21 attorney, Gerald Cohen.

22 Q Is that the gentleman that testified earlier
23 in this trial?

24 A That's him, yes.

25 Q That was Mr. Gerald Cohen who was formerly the

district attorney of Orange County?

THE COURT: The name is Jerome, as I recall.

A Jerome Cohen.

Q I'm sorry, Jerome Cohen.

What happened on that election?

A I won.

Q Mr. Doulin, I'm going to read to you a series of questions and answers and ask you whether you remember being asked these questions and answers at the time you testified before a grand jury in 1973, and ask you, to the best of your recollection, whether you so answered and whether such answers were truthful.

"Q Let me turn to an area that is of principal concern to us which has to do with the enforcement of the gambling laws in your county among other counties, and let me focus on what the ultimate question is insofar as our interest in speaking with you, sir. Were you concerned to know whether any public officials in Orange County ever received any money or any other kind of valuable things in return for playing any part in attempting to influence the local law enforcement in that county.

"Do you understand that?

"A I understand the question.

"Q And my question I want to ask doesn't really

1 gwjw 4

Doulin - direct

1107

2 go so much to hearsay although we would be interested in
3 any such hearsay and it's appropriate before a grand jury.
4 Let me put this question to you: Have you personally,
5 sir, ever in any way been involved in any conversation
6 or discussion with anyone on the subject of you personally
7 in any way receiving anything of value to help influence
8 law enforcement and particularly gambling law enforcement
9 in your county?

10 "A Never."

11 Were the answers to those questions true or
12 false?

13 A To the best of my ability, true.

14 Q I will ask you another series of questions and
15 answers put to you, series of questions and answers which
16 were also asked at the same time, and ask you, to the best
17 of your knowledge and belief at that time, whether the
18 answers were true or false.

19 "Q. I guess what I had asked you was and you started
20 to answer, I asked you if there ever came a time when anyone
21 had approached you to ask you to exert some influence or
22 had offered you any money to try to exert influence in
23 connection with the gambling laws.

24 "A Nobody offered me money. I know that years
25 ago, many people who were not in gambling at all now, asked

2 me to see the -- would I go see a judge or go see the
3 district attorney. But I never agreed to do it. Never
4 spoke to any judge or district attorneys in anybody's
5 behalf. Now being in the undertaking business --

6 "Q That means gambling or anything else.

7 "A Gambling or anything else as far as
8 that goes. Being in the undertaking business, people call
9 me and ask me to help them. Like for instance, I have many
10 calls on speeding tickets. Will I see a judge for that.
11 Something like that. I have calls people say 'my brother
12 got arrested for drunk driving.' I might tell them that I
13 will see what I can do for them. But I have always set a
14 rule. I don't see anybody, but I tell them that I might.
15 That I'll see what I can do for them.

16 "Now, this answers two purposes. After all,
17 I'm in business. I may have buried in the family. I don't
18 want to lose the family and don't want to create any hard
19 feelings. At I tell them I'll make an effort to see
20 what I can do. But I've never yet approached a DA, an
21 assistant or any judge for anyone.

22 "Q For any purpose?

23 "A For any purpose."

24 THE COURT: "For anything."

25 Q I'm sorry, "For anything." Thank you.

2 A That's true.

3 Q I would like to put to you the following
4 questions and answers:

5 "Q Mr. Doulin, has anyone ever at any time
6 offered you any money or anything of value and you say that
7 in its broadest sense to try" --

8 THE COURT: Broad sense."

9 Q " -- broad sense to try to influence your
10 conduct in any way whatsoever on anything, now that's a
11 broad question and I don't mean to be unfair by it.

12 "A I'll answer it. And I give you the privilege
13 of looking up all bank accounts that you want to on my
14 behalf that I have. The only thing that I ever had given
15 to me was quite publicly. Malcolm Wilson, the Lieutenant
16 Governor was a toastmaster at a testimonial dinner given
17 for me two years ago. 750 people attended. They had to
18 stop selling tickets three months before the affair was
19 held. They gave me a testimonial dinner and presented me
20 with a 1972 Cadillac. That was done publicly. That's the
21 only thing of value that I ever received and that was done
22 by my friends throughout both counties."

23 Then a break in the testimony and then you
24 continue:

25 "Now, that's the only thing of value that I

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Doulin - direct

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ever received in my life.

"Q Has anyone ever offered you anything of value or money or anything else?

"A No.

"Q Regardless of whether it was given with the exception of this testimonial you have told us about.

"A No."

Were those answers to those questions, to the best of your belief, true or false?

A True.

Q Now another group of questions and answers.

"Q You are talking about traffic tickets?

"A Yes, traffic tickets it would be.

"Q Has anyone ever come to you asking you to do a favor for them in any other kind of criminal case?

"A No.

"Q Never?

"A Not that I know of.

"Q When you say, 'Not that I know of,' you mean never?

"A Never, yes; never.

"Q Has anyone, at any time, come to you and offered you money if you would see someone in law enforcement, from a judge all the way through to a policeman --

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Doulin - direct

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"A No.

"Q Let me finish the question -- offer you money to see someone in law enforcement to try to influence a case or investigation, have you ever been offered money to do that?

"A No.

"Q Never in your entire career?

"A No.

"Q Have you ever solicited from anyone money in order for you to see someone in law enforcement to influence a case or investigation?

"A No.

"Q Have you ever had any discussion with anyone concerning" --

THE COURT: "Discussions."

Q I will repeat the question.

"Q Have you ever had any discussions with anyone concerning people offering you money or anything of value for you to see someone in law enforcement to influence a case or an investigation?

"A No.

"Q You understand when I say money in my prior question I include anything of value --

"A Yes.

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Doulin - direct

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"Q -- offered to you?

"A I understand.

"Q Has anyone offered you or have you ever solicited anything of value to be payed indirectly, for example, to the Republican party, rather than directly to you --

"A No."

Then continuing the question. The last few words of which were "rather than directly to you, in exchange for seeing someone in law enforcement and attempting to influence a case or an investigation?

"A Never.

"Q Nothing like that has ever happened?

"A No.

"Q No one has ever asked you to do that?

"A No.

"Q You have never solicited anyone along those lines?

"A No."

To the best of your knowledge and belief, can you tell us whether the answers to those questions that I have just read were true or false?

A True.

Q I have another series of questions, Mr. Doulin.

"Q Have you directly and personally or indirectly,

1 gwjw 10

Doulin - direct

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2 through someone else, interceded in any case in the
3 criminal justice system in an attempt to influence the
4 outcome of the case or investigation of the trial or what-
5 ever the pending --" the complete is incomplete.

6 "A Never.

7 "Q You are absolutely certain about that?

8 "A Yes.

9 "Q Did you ever try to use your influence in any
10 way to affect the outcome of a criminal justice investiga-
11 tion or proceeding?

12 "A Never.."

13 Do you remember being asked those questions
14 and making those answers?

15 A I do.

16 Q Can you tell us, to the best of your belief,
17 were the answers to those questions true or false?

18 A They were true.

19 Q Another group of questions.

20 "Q Did Mrs. Grant at any time ever have a discussion
21 with you in which you agreed to intercede on behalf of her
22 son, Richard Monell, in connection with a criminal case
23 that was pending against him?

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Doulin - direct

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2 "A No.

3 "Q Did you ever have conversations with anyone,
4 whether it be Mrs. Grant or another member of the family or
5 anyone else, in which they asked you to intercede in
6 Richard Monell's criminal case and to use your influence
7 to assist Richard Monell?

8 "A No.

9 "Q Did you ever offer or volunteer to intercede
10 on Mr. Monell's behalf in his criminal case?

11 "A No."

12 Do you remember being asked those questions
13 and making those answers?

14 A Yes.

15 Q To the best of your knowledge and belief, at
16 the time of these questions, were these answers given true
17 or false?

18 A They were true. I would like to make one
19 correction. I think, counselor, you said her son Richard
20 Monell.

21 Q That was the way --

22 THE COURT: That was the way the question
23 read.

24 A She has no son.

25 Q That was an error on the part of the question.

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Doulin - direct

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A I just wanted to correct that.

Q It wasn't your error.

A No.

Q Other people make errors.

MR. SCHWARTZ: I object to any side comments.

THE COURT: There is no side comment necessary.

The jury will disregard the side comment.

Counsel read the questions correctly, read the answers correctly, and the witness has stated that his answers to those questions were true.

Q I have one more question. Do you remember this being asked of you:

"Q Did you ever have a discussion with anyone in which you discussed interceding in Richard Monell's criminal case in order to assist Richard Monell and to use your influence to help him?

"A No."

To the best of your knowledge and belief, was the answer to that question true or false?

A True.

Q Mr. Doulin, do you know Richard Monell?

A I know him now.

Q When was the first time that you saw him?

A My recollection, it was when he was on the

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Doulin - direct

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stand here.

Q Had you ever spoken to him before?

A Never.

Q Did you know of his existence, though?

A Oh, yes.

Q Did you ever agree with anyone to intercede
on behalf of Richard Monell in connection with that
assault case?

A No.

Q Did you ever do so?

A No.

Q Did you ever promise anyone that you would
do so?

A Never.

Q Did you know Flo Hall? Did you know Florence
Hall or Florence York?

A Never met her.

Q You saw her in court, though --

A Yes.

Q -- earlier this week?

A Yes.

Q Or last week. I can't quite recall.

Do you remember listening to Mr. Cohen testify
on examination in this action?

1 gwjw 14 Doulin - direct 1117

2 A Yes.

3 Q Who was Mr. Cohen?

4 A Mr. Cohen was the former district attorney.

5 Q Was there a time when Mr. Cohen was an assistant
6 district attorney?

7 A Yes.

8 Q Did there come a time in Orange County when there
9 was a vacancy for the district attorneyship when Mr. Cohen
10 was an assistant district attorney?

11 A Yes, Mr. Cohen was an assistant district
12 attorney under Judge Ingrassia. When he was moved up to
13 the bench, it created a vacancy in the DA's office and Mr.
14 Cohen went on to be district attorney.

15 Q How was the office of district attorney
16 filled?

17 A Well, politically?

18 Q Yes.

19 Q Any aspirant for the office of -- for any
20 office --

21 Q Let me interrupt. Let me withdraw the question
22 for a moment.

23 Is the office elective or is it appointed?

24 A Well, it is elected.

25 Q Can you tell us what procedure is involved in

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Doulin - direct

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obtaining a district attorney?

MR. SCHWARTZ: We are talking about
Orange County district attorney?

THE COURT: Yes. Would we limit our question
to Orange County. I think that would be what is relevant
here.

MR. PLATZMAN: Yes.

Q This is what I'm talking about, Orange County.

A Orange County?

Q Yes.

A If you are going to be a candidate for any
public office, that is county-wise, you go to all the
committeemen. You write letters to all the committeemen
asking them for their support.

Now, you go also to the executive committee,
who are also members of the full committee. You can go
to their homes and you can ask them for their support.

The executive committee is the first one to
get your request. If you send a letter to the chairman,
he reads it to the executive committee. Then all candidates
go around to see as many committeemen as they can, at night
or whenever they can visit them in their home, and they ask
them for their support.

This is done by any candidate who is going to

2 to run for office, whether it be assemblyman, senator,
3 district attorney or any other public office, if it
4 encompasses the whole county. This is how he is selected.

5 Q Is it essential that someone running for office
6 on any political party's ticket obtain the endorsement
7 of the committee?

8 A Now, it goes before the full committee of
9 410 members and it is a public meeting held open to every-
10 one who has a right to have their names presented to the
11 committee. The one who receives the majority of that vote
12 is selected the endorsed candidate, but the endorsement
13 doesn't mean that you are going to be elected. That is
14 merely an endorsement of your candidacy and a recommendation
15 to the voters that you are qualified for the office you
16 seek.

17 Q When you say endorsement of the candidate,
18 endorsement by whom?

19 A By the full committee.

20 THE COURT: Of one of the political parties?

21 THE WITNESS: Yes, of -- in our case, the
22 Republican party. The Democrats had the same system.

23 THE COURT: Would that mean if you were
24 endorsed by a majority of the Republican County Committee
25 of Orange County for the office of district attorney, your

1 gwjw 17 Doulin - direct 1120

2 name would appear on the ballot at the election as the
3 Republican candidate?

4 THE WITNESS: No. Then comes the primary.
5 Anyone has a right to run in the primary who don't have
6 the endorsement.

7 Q This would be an endorsement representative of
8 the Republican party?

9 A Yes.

10 Q Then in the primary --

11 A Anybody can run.

12 Q Anybody could run against the person who was
13 picked by the Republican party?

14 A That's right. You don't have to have endorse-
15 ment of any committee if you want to run. That's the
16 democratic process. You can run for office any time you
17 want without any endorsement. Sometimes newspaper endorse.
18 You don't have to have their endorsement if you are going
19 to run.

20 THE COURT: How do you get on the ballot in
21 the primary if you are not the endorsed candidate? Is that
22 a procedure?

23 THE WITNESS: Yes. Every candidate must have
24 a certain number of signatures on petitions signed by enrolled
25 voters of the party that he seeks to go on that ballot.

1 gwjw 18

Doulin - direct

1121

2 For instance, if you want to run for district
3 attorney, you don't have the endorsement, you get your own
4 committee. They are all enrolled voters. They have to
5 sign on the bottom they are enrolled members of the
6 Republican party in this case. You have to say there are
7 so many signatures on this ballot, 19 or 20. Each
8 petition has 20 names on it. So you have to swear that there
9 was 20 names and you have to sign your name that this is
10 valid.

11 Anybody can run for public office. I guess I
12 don't have to go into the whole thing. That's what you
13 asked me.

14 Q In this case, at the time that Mr. Cohen wanted
15 to be a district attorney, was there anyone else who was
16 aspiring to be the district attorney?

17 A Yes. Mr. Mauriello, who was in the district
18 attorney's nine years; Mr. Cohen, who was an assistant
19 district attorney and was first what they call chief
20 assistant. He was in there fifteen years.

21 Now, they both came to me and asked me if I
22 would support them.

23 This is the first thing you do when you are
24 going to run for public office, go see the county leader.
25 You don't have to. This is generally the practice.

I told Mr. Cohen in the presence of Mr. Mauriello that I would support him as far as I was concerned, but he would have to go around -- naturally he knew this. He was also at that time chairman of the Port Jervis committee, which is the Republican committee of Port Jervis, the branch of the Orange County Republican committee. I would back him because he had fifteen years, whereas Mr. Mauriello was not the chief assistant and only in the office for nine years, and it was always my policy to try to promote within the rank, the one who had the seniority.

Q At that time Mr. Cohen had the seniority?

A Yes.

Q And you told this to Mr. Cohen and to Mr. Mauriello?

A Both present.

Q Did you also tell it eventually to Mr. Weissman?

A This is another time. Mr. Weissman wasn't even a candidate at that time.

Q I see. I thought he was also a candidate?

A No, he was only in the district attorney's at that time three years.

Q He was only there a short while?

A Yes.

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Doulin - direct

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Q Mr. Cohen came from the Port Jervis area?

A Yes, sir.

Q He had the backing I assume of his own delegation?

A Yes. When it came time for the full committee, Mr. Mauriello didn't put his name before the convention.

Q Did Mr. Cohen, to your knowledge, also solicit the backing of other committeemen throughout the county?

A He went around to every committee and every committeeman.

Q Did there come a time when Mr. Cohen was about to resign as district attorney?

A Well, Mr. Cohen first had to be elected. He had no opposition in the primary, in the Republican primary. On Election Day he was elected district attorney.

Q Did he have opposition then?

A Oh, yes.

Q He was successful?

A He was successful in the election. Andy Mauriello was his first assistant for a short while. They were very friendly. Andy quit to go with another law firm of Finkelstein, Kaplan, Mauriello and another name, and that moved Mr. Abe Weissman up to chief assistant.

Q That name Finkelstein, is that the same name

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Doulin - direct

1124

Finkelstein that appeared as the attorney for Mr. Monell
for a short period of time --

A Yes.

Q -- that was mentioned in this case?

A Yes. Mr. Cohen had a heart attack, was carried
out of his office one day shortly after that. He resigned.

1 GWmch

Doulin-direct

2 Q And at the time of his resignation, who was the
3 highest man in seniority?

4 A Weissman.

5 Q Did he then have your backing as district
6 attorney?

7 A Yes.

8 Q Did there come a time when Mr. Cohen aspired to
9 an office in the Republican county committee?

10 A Yes. Two years ago Mr. Cohen ran for first
11 vice-chairman of the Orange County Republican committee,
12 and he had for his opposition another attorney by the name
13 of Clark Van Fleet. They both ran and Mr. Cohen was
14 defeated for first vice-chairman. Mr. Van Fleet was
15 elected.

16 Q In that contest did Mr. Cohen come to you for
17 support?

18 A Yes.

19 Q Did Mr. Van Fleet come to you for support?

20 A Yes, he did.

21 Q Did both of them, to your knowledge, go to other
22 committee men and ask for support?

23 A Yes, that is the procedure. They go to all
24 committee men.

25 Q And this was a contest?

1 2 GWMch

Doulin-direct

2 A Contest, opne, publicly. You have to be a
3 member of the committee to run.

4 Q But then, eventually, there had to be a vote by
5 the entire body?

6 A Yes.

7 Q And it's run by majority?

8 A Yes.

9 Q Was your vote publicly proclaimed?

10 A The vote itself is a secret ballot. The
11 secretary -- we have what is called a committee on proxies.
12 They have the election committee, three, who sit, and
13 they examine proxies.

14 Now, after the majority names are called, the
15 secretary announces -- for instance, to make it easy,
16 if there are 200 members present by body and by proxy,
17 101 would be the majority, and she announces what the
18 majority is.

19 Then they proceed to ballot, and whoever gets the
20 101 is elected.

21 Q When Mr. Cohen spoke with you about your support
22 in running for office, did you tell him -- what did you
23 tell him?

24 A I told him that I didn't think I could support
25 him, that I was going to support Clark Van Fleet, who had

1 3 GWMch

Doulin-direct

2 been my first vice-chairman.

3 Q And do you know Judge Ingrassia?

4 A Very well.

5 Q And when did he become judge?

6 A Well --

7 Q '71?

8 A Probably. I couldn't tell you the year. Maybe
9 around that time.

10 Q Early 1971?

11 A All right.

12 THE COURT: He has testified already -- I know
13 you were present, but you probably don't recall it -- that
14 he has been a county judge of Orange County since
15 February '71.

16 Does that refresh your recollection?

17 THE WITNESS: Yes, that's about it.

18 Q How long have you known him?

19 A Well, I knew him when he was an assistant D.A.
20 under Abraham Isseks, I knew him when he was the D.A.,
21 and I have known him probably twenty years or so.

22 Q Just one question.

23 Did you ever offer Mr. Jerry Cohen any money or
24 anything of value at any time to do something with respect
25 to his office during the years that he was either an

1 4 GWhch

Doulin-direct

2 assistant district attorney or a district attorney?

3 A Never.

4 Q Did you ever attempt at any time during any of these
5 periods to intercede on behalf of any person in a criminal
6 matter during any period Mr. Cohen was assistant district
7 attorney or district attorney?

8 A No, sir.

9 Q Did you ever give him any money?

10 A No, sir.

11 Q Did you ever offer him any money?

12 A Never.

13 Q Did you ever offer Judge Ingrassia any money
14 to do anything, either when he was judge, district attorney
15 or assistant district attorney?

16 A Never.

17 Q Did there come a time where you recall an
18 incident --

19 MR. PLATZMAN: I withdraw the question.

20 Q Did you ever ask Judge Ingrassia about a traffic
21 ticket of a Mr. Leon Greenberg?

22 A Yes.

23 Q And do you remember when that was?

24 A That was when he was D.A. I think we were having
25 lunch together and Mr. Leon Greenberg was going to go to

1 5 GwMch

Doulin-direct

2 Hawaii, and he asked me could I talk to Ingrassia, who
3 was a good friend of Judge Roe, who was the justice of
4 the peace, and get an adjournment on a traffic ticket
5 until he came back from Hawaii.

6 But I didn't think that was any criminal act.
7 I think a priest, rabbis, ministers, anybody else, can
8 get an adjournment. I didn't have it in mind I was
9 corrupting anybody at that time.

10 Q When you answered the questions we talked about
11 earlier in your testimony, did you believe at the time of
12 your answer it was truthful with respect to this traffic
13 ticket incident?

14 A Yes.

15 Q Did you have that in mind when you were discussing
16 your answers?

17 A Did I have what in mind?

18 Q This traffic ticket.

19 A No.

20 Q What did you ask Mr. Ingrassia to do at that time?

21 THE COURT: I think he has testified to that.

22 Q And did you offer him any money to do this?

23 A No.

24 Q Did you ask him to have the ticket fixed or
25 swapped?

1 6 GwMch

Doulin-direct

2 A No, just to have it adjourned until Mr. Greenberg
3 came back from Hawaii or wherever he was going. Hawaii.

4 Q Was the case adjourned?

5 A No.

6 Q Do you know Mr. Norman Shapiro?

7 A Yes, I know him.

8 Q What is his position today?

9 A He was appointed D.A. by Governor Carey on the
10 death of Mr. Weissman.

11 Q And how long have you known Mr. Shapiro?

12 A Not too long. I'd say, oh, maybe eight years.

13 Q What were the circumstances under which you first
14 met him?

15 A I don't even remember meeting him. He ran one
16 time for surrogate of the county against Irving Green.

17 Q When was that?

18 A I think that was maybe about a year ago.

19 Q How long?

20 A I don't know, really. I forget the date.

21 Q Several years ago?

22 A Yes.

23 Q Getting back before the surrogate contest, when
24 do you recall first meeting with him? Do you recall?

25 A I don't recall meeting with him.

1 7 GwMch

Doulin-direct

2 Q Was he a lawyer practicing in Orange County?

3 A Well, if he was, I didn't know him to be a
4 lawyer.

5 Q Do you have any independent recollection about
6 when you first became aware of Norman Shapiro's existence
7 and activities in Orange County?

8 A I think the first time I heard of Norman
9 Shapiro was when he was going to run for surrogate.

10 Q And at that time he was the nominee of what
11 political party?

12 A Democrat.

13 Q Do you know what the office of surrogate is?

14 A The office of surrogate, to the best of my
15 recollection and knowledge, being an undertaker, we have
16 many estates that go into the surrogate's court.

17 Not being a lawyer, I know it does have a lot
18 to do with minor children, guardians appointed for minor
19 children, when someone dies and there is no father and
20 mother, the surrogate has to appoint somebody. Estates.

21 Many times I have estates and lawyers tell me
22 it is being held up, it's in surrogate's court.

23 Q Did you know Mr. Green at that time?

24 A I knew Mr. Green. I served with him in the city
25 council.

1 8 Gwmch

Doulin-direct

2 Q When was that?

3 A Well, about twenty years ago.

4 Q And what was Mr. Green's profession?

5 A Lawyer.

6 Q Where does he practice?

7 A Newburgh.

8 Q Can you tell us how Mr. Green was selected?

9 A By the same process.

10 MR. SCHWARTZ: I object.

11 A By the same process, by committee.

12 THE COURT: I am going to allow it.

13 Q By which committee?

14 A By the Republican committee.

15 Q Republican committee for Orange County?

16 A Yes, the full committee.

17 Q As a result of his selection by the committee
18 of the Republican party --

19 A He was endorsed by the full committee, had no
20 opposition on primary day.

21 Q Did he have any opposition within the committee?

22 A No.

23 Q Was he a member of the executive committee, too?

24 A No.

25 I want to correct a statement. To the best of

9 GWmch

Doulin-direct

my recollection, I think that there was another man nominated at the convention when Irv Green was endorsed, but I forget who it was.

I have been through so many endorsement meetings, I forget who was up. I think someone was nominated and Green won the majority vote.

Q But eventually, whether it was contested or uncontested, Mr. Green was the nominee of the Republican party?

A Right.

Q During the election?

A That is right.

Q And there was a campaign that was waged by the Republicans and by the Democrats?

A A very bitterly staged campaign, yes.

Q And you supported whom?

A Irv Green.

Q And what happened in the election?

A Well, he defeated Mr. Shapiro, who was the Democratic candidate, Norman Shapiro, who testified here the other day.

Q From that date until now, were you ever friendly with Mr. Shapiro?

A We don't even speak. He doesn't speak to me and

1 10 GwMch

Doulin-direct

2 I don't speak to him. I meet him on the street in Goshen
3 where his office is. Ordinarily I am not this way.
4 I will talk to anybody.

5 But he doesn't speak to me and I don't speak
6 to him.

7 Q Did you ever go out with him socially?

8 A No, sir.

9 Q Were you ever friendly with him before this
10 bitter contest?

11 A Never.

12 Q Have you ever been friendly with Norman Shapiro?

13 A Never.

14 Q Mr. Doulin, were you in court when Mr. Shapiro
15 said he had a conversation with you two months after this
16 March 26th resentencing of Monell?

17 A I was here. I was present.

18 Q Did you hear him testify?

19 A I heard him.

20 Q And he said that you had a meeting with him
21 when he was walking --

22 A I think he said I passed him or was on the elevator
23 with him, was three feet behind him, or something like
24 that. No meeting. I think what he said --

25 MR. SCHWARTZ: I will object to this. We don't

2 have a pending question.

3 THE COURT: I think I will strike the partial ans-
4 wer and let you begin again.

5 MR. PLATZMAN: Thank you.

6 THE COURT: Just wait for the question, Mr.
7 Doulin.

8 Q Do you recall whether Mr. Shapiro testified that
9 he crossed you in the family court where the clerk's
10 office is and the girls are, in that big anteroom, and
11 you were going in one direction and he was going in the
12 other direction; do you remember that?

13 A Yes.

14 Q Did you ever meet with Mr. Shapiro at that time?

15 A No.

16 Q Did you ever see him in the family court in
17 the clerk's office?

18 A Never.

19 Q Do you recall ever meeting him and having such
20 a conversation with him?

21 A Never.

22 Q Do you recall when Mr. Shapiro was testifying that
23 he said that you had spontaneously stopped him and told him
24 that you had helped do something for this Monell boy;
25 do you remember that?

1 12 Gwmc

Doulin-direct

2 A I remember him testifying.

3 Q And that you did so spontaneously?

4 A I never talked to the man.

5 Q Did you ever talk to him any other place?

6 A Never.

7 Q About the Monell case?

8 A About anything.

9 Q Including the Monell case?

10 A Never.

11 Q Now, were there occasions, Mr. Doulin, within
12 your career in the Republican party when you supported one
13 nominee or aspirant for nomination and other committee men
14 supported another, and the other individual was nominated
15 by the committee?

16 A Yes. It happened to Mr. Ingrassia's brother.
17 I supported a man in the committee by the name of Kennedy
18 for the assembly --

19 Q This was for the post of assemblyman?

20 A -- and the committee selected Mr. Ingrassia's
21 brother.

22 Q And after the selection by the committee of Mr.
23 Ingrassia's brother, did Ingrassia's brother -- what is
24 his name, incidentally?

25 A Louis.

1 13 GwMch

Doulin-direct

2 Q Without calling him Mr. Ingrassia's brother.

3 Mr. Louis Ingrassia ran for the assembly on the
4 Republican ticket?

5 A Yes.

6 Q And you had supported Mr. Kennedy for that post
7 on the American ticket?

8 A For the endorsement. He lost and I supported
9 Louis when he got the endorsement.

10 Q And then Mr. Louis Ingrassia ran in the election
11 against the Democratic selection?

12 A Yes.

13 Q And who did you support?

14 A Louis Ingrassia.

15 Q Was this after a democratic process of selection
16 of Mr. Ingrassia as a candidate?

17 MR. SCHWARTZ: I will object.

18 THE COURT: Sustained.

19 Q Did you suggest anyother candidate to run against
20 Mr. Ingrassia?

21 MR. SCHWARTZ: Objection.

22 THE COURT: I will allow it.

23 A No.

24 Q When, to the best of your recollection, did you
25 first become aware, if you have, of the problems of Richard

Doulin-direct

1 14 Gwch

2 Monell?

3 MR. SCHWARTZ: I object to the form, your Honor.

4 THE COURT: Perhaps the Monell case would be a
5 better way to describe it.

6 MR. PLATZMAN: All right.

7 Q The case of Richard Monell.

8 MR. PLATZMAN: This is introductory. I want
9 a point in time.10 MR. SCHWARTZ: We will understand that to mean
11 the assault case.

12 MR. PLATZMAN: Yes.

13 THE COURT: That is what you mean?

14 MR. PLATZMAN: Yes, your Honor.

15 THE COURT: The matter which has been the subject
16 of this trial?

17 MR. PLATZMAN: Right.

18 THE COURT: A subject.

19 MR. PLATZMAN: Right.

20 THE COURT: When did you first become aware of
21 Richard Monell's assault case?

22 THE WITNESS: I read it in the paper.

23 Q Do you recall --

24 MR. PLATZMAN: I withdraw the question.

25 May we approach the bench for a moment?

1 15 GWmch

Doulin-direct

2 THE COURT: Yes. Why don't we take our mid-
3 afternoon recess at this time.

4 One moment.

5 (Pause)

6 THE COURT: Ladies and gentlemen, we will take
7 our midafternoon recess at this time, ten minutes.

8 Please do not discuss the case among yourselves.
9 Keep an open mind on all facets of the case until the
10 case has been completed and has been given to you following
11 my charge.

12 The jury is excused for a ten-minute recess.

13 The witness may step down.

14 (Recess)

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1 gwjw 1

2 (In open court - jury present)

3 THE COURT: Good afternoon, ladies and
4 gentlemen.

5 During our recess I conferred with counsel
6 and it was agreed that we would now interrupt the direct
7 examination of Mr. Doulin and call three I believe
8 relatively short witnesses who have come a distance and
9 who we would accommodate rather than have them wait
10 until the conclusion of Mr. Doulin's examination.

11 So you are going to hear -- I believe there are
12 two or three witnesses who will be called now beginning
13 with the gentleman who is in the witness chair. Then we
14 will resume with Mr. Doulin's direct examination

15
16 T H O M A S A . H A D A W A Y , called
17 as a witness by the Defendant, being first duly
18 sworn, testified as follows:

19 DIRECT EXAMINATION.

20 BY MR. PLATZMAN:

21 Q Mr. Hadaway, where do you reside?

22 A Montgomery, New York.

23 Q How long have you lived there?

24 A All my life, seventy-some years.

25 Q What is your profession?

1 gwjw

Hadaway - direct

1141

2 A I am an attorney.

3 Q Was there ever a time when you held public
4 office?

5 A Yes, there was.

6 Q What was that office?

7 A Well, I have held several public offices
8 probably starting with the office of Village Attorney of
9 the Village of Montgomery. That was followed --

10 Q When was that?

11 A Prior to 1951, I think for about -- a period
12 of about twenty years. There might have been a slight
13 interruption.

14 Q When were you admitted to the Bar?

15 A 1926.

16 Q In '51 you became an attorney for the village?

17 A Shortly after that, I think.

18 Q How long did you hold that post?

19 A I think it was for about twenty years. There
20 may have been one or two year's interruption.

21 Q What other public office did you hold?

22 A When on January 1, 1951 I was appointed county
23 attorney for the County of Orange. I held that office for
24 almost twenty years, until June of 1970.

25 Q What is the function of the county attorney?

1 gwjw

Hadaway - direct

1142

2 A I beg your pardon?

3 Q What are the functions of the county attorney?

4 A Well, he's the general advisor to what was then
5 the Board of Supervisors, all county officers, on civil
6 matters as distinguished from the district attorney, who
7 is the legal advisor in criminal matters.

8 Q It is the civil counterpart to the district
9 attorney?

10 A That's right.

11 Q What other office did you hold?

12 A In June of 1970 I was appointed judge of the
13 Surrogate's Court of the County of Orange.

14 Q How long did you hold that office?

15 A For about two and a half years, and I retired
16 December 31, 1972 having reached my seventieth birthday
17 that year.

18 Q Are you a member of any organizations?

19 A Oh, yes.

20 Q Will you name some of them?

21 A County Bar.

22 Q Bar Association?

23
24 A County Bar Association, State Bar Association.

25 Q When you say the state, you mean New York State

1 gwjw

Hadaway - direct

1143

2 Bar?

3 A State of New York Bar Association. That's my
4 professional affiliations.

5 Q What other affiliations do you have?

6 A Oh, I belong to different church organizations
7 and clubs and things of that sort.

8 Q Will you name some of them?

9 There's a men's club of the church I belong
10 to, First Presbyterian Church. I belong to a fire company.
11 I have been a fireman for over fifty years. And there
12 are probably others that don't come to mind.

13 Q You can't think of them at the moment. All
14 right.

15 Do you know Mr. Doulin?

16 A I do.

17 Q The defendant in this proceeding?

18 A I do.

19 Q How long have you known him?

20 A Well, I would say fifteen or twenty years.

21 Q Can you tell us the circumstances under which
22 you first met him?

23 A Probably during my term as county attorney,
24 I probably met Mr. Doulin at that time. There was a time
25 when there became a vacancy in the office of county judge

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gwjw Hadaway - direct 1144
of the county. I don't think Mr. Doulin was chairman at
that time of the county committee, but I think he was a
committeeman and I may have come in contact with him.
I didn't get to know Mr. Doulin well probably until five
or six years ago.

Q You say there was a vacancy for a position of
county judge?

A Yes.

Q I gather from that comment you were aspiring
at that time to possibly run for that office; is that
right?

A Yes, but I didn't get it.

Q Did you see many committee members at the
time?

A Yes.

Q Including Mr. Doulin?

A Possibly Mr. Doulin.

MR. JOSSEN: Objection, your Honor.

Q Do you remember whether you saw him at that
time?

THE COURT: I will strike the last answer
because it is speculative.

You object on the grounds of --

MR. JOSSEN: Relevance, your Honor.

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gwjw Hadaway - direct 1145

THE COURT: I will allow the question.

Q Do you remember whether you did or did not speak to him about it?

A My recollection is not very clear as to that position.

THE COURT: That is all right.

Q During the intervening years, did you become friendly and know Mr. Doulin?

A Yes.

Q Did you have occasion to meet with him?

A Yes.

Q In business or socially or both?

A Socially mostly.

Q Did you know any members of his family?

A I know his wife, I know one of his daughters, son-in-law.

Q Do you recognize his wife in the courtroom today?

A Yes, I do.

Q Can you point her out to us?

A The good looking lady in the pink dress.

Q Which daughter did you know?

A I think it was Mrs. Garrison.

Q Is that one of his natural daughters or the

1 gw v

Hadaway - direct/cross

1146

2 adopted daughter, if you know?

3 A That I don't know.

4 Q Did you have occasion during this entire
5 period to meet and see and talk with people who also knew
6 Mr. Doulin?

7 A Yes.

8 Q Can you tell us whether you know the reputation
9 of Mr. Doulin with respect to honesty in Orange County?

10 A I do.

11 Q Can you tell us what that reputation is?

12 A I would say it was very good.

13 Q Can you tell us whether you knew or know of the
14 reputation during this entire period of Mr. Doulin with
15 respect to truthfulness?

16 A Yes.

17 Q Can you tell us what that reputation is?

18 A Also very good.

19 MR. PLATZMAN: I have no other questions.

20 MR. JOSSEN: May I proceed, your Honor?

21 THE COURT: You may.

22 CROSS EXAMINATION

23 BY MR. JOSSEN:

24 Q Mr. Hadaway, are you familiar with the facts
25 involved in this case, sir?

1 A No more than what I have read about him in the
2 newspaper.
3

4 Q Have you heard, sir, that there has been
5 testimony in this case by John Monell, the son-in-law of
6 Mrs. Jean Grant, that during the time that her grandson's
7 criminal assault case was pending Mr. John Monell remembered
8 that Mrs. Grant said she was talking to Mr. Doulin and
9 that she told Mr. Monell that there was something going
10 on, she thought she could ask Mr. Doulin about the situation?
11

12 Have you heard that, sir?

13 A Well --

14 Q Yes or no, please.

15 A I have read about this case in the newspaper.
16 Whether I have heard it as you have related it, I'm not
17 certain.

18 Q Have you heard, sir, that there has been
19 testimony in this case that Mrs. Jean Grant delivered the
20 sum of \$1480 to Mr. Doulin's funeral home in connection
21 with a payoff for a sentence of her grandson, Richard
22 Monell? Have you heard that, sir?

23 A Have I ever heard that?

24 Q Have you ever heard there has been testimony
25 to that effect? Yes or no, please.

A I have not heard it.

1 gwjw

Hadaway - cross

1148

2 MR. JOSSEN: May I have a moment, your
3 Honor?

4 THE COURT: Yes.

5 (Pause)

6 MR. JOSSEN: Nothing further, your Honor.

7 MR. PLATZMAN: That's all.

8 THE COURT: Thank you very much, Mr. Hadaway.

9 (Witness excused)

10 THE COURT: Who is your next witness?

11 MR. PLATZMAN: Mr. Reed.

12
13 B E N J A M I N F . R E E D , called as

14 a witness by the Defendant, being first duly

15 sworn, testified as follows:

16 THE COURT: You may proceed.

17 DIRECT EXAMINATION

18 BY MR. PLATZMAN:

19 Q Mr. Reed, where do you reside?

20 A In the City of Newburgh.

21 Q How long have you lived in the City of Newburgh?

22 A All my life, sixty-three years.

23 Q What is your occupation or trade?

24 A I am retired at the present time. I was the
25 fire chief of the city.

1 gwjw

Reed - direct

1149

2 Q How long were you the fire chief of the city?

3 A Seven years.

4 Q And prior to being a fire chief, did you
5 hold any other position with the Fire Department?

6 A Yes, sir. I was an assistant chief and lieutenant
7 and a fireman.

8 Q That's going backwards.

9 A Going back a long time; yes, sir.

10 Q When did you first become a fireman in the
11 Fire Department?

12 A I went to work in the Fire Department in
13 1936 as a clerk and I became a fireman in 1941.

14 Q Prior to 1936 was there any other occupation
15 that you were in that you recall?

16 A Quite a few. It was in the middle of the
17 depression. None of any great significance.

18 Q Nothing of any great significance?

19 A No, sir.

20 Q Are you active in any other associations in
21 your community?

22 A I'm a real estate broker.

23 Q How long have you been a real estate broker?

24 A Oh, I have had a license about twelve or
25 fifteen years. I can't recall exactly.

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Reed - direct

1150

Q Do you maintain an office now?

A In my home, yes.

Q Any organizations that you belong to?

A New York State Association of Fire Chiefs,
Orange County Fire Chiefs.

Q Any other organization of a social or other
type?

A No, sir.

Q Do you know Mr. William Doulin, the defendant
in this case?

A Yes, I do.

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Q And how long have you known him?

A Since 1936.

THE COURT: Almost forty years?

THE WITNESS: Yes, sir.

Q And what were the circumstances under which you met Mr. Doulin?

A I came to work as a clerk in the fire department and Mr. Doulin was a lieutenant in the fire department at that time.

Q He was working for the fire department at that time?

A Yes, sir.

Q And from that time on until the present, have you continued to maintain a friendly relationship with Mr. Doulin?

A Yes, sir.

Q What political party do you belong to?

A I am a Democrat.

Q Are you active in the party?

MR. JOSSEN: Objection, your Honor.

THE COURT: Sustained.

Q In any event, you are an enrolled Democrat?

MR. JOSSEN: Objection.

THE COURT: Yes. It has been asked and answered.

1
2 Leave the record the way it is. Let's proceed.

3 Q During these years, have you had occasion to see
4 Mr. Doulin frequently?

5 A Yes, sir.

6 Q And his family?

7 A Yes, sir.

8 Q Do you know his family?

9 A I know his wife, yes.

10 Q Do you see her in the courtroom?

11 A Pardon me?

12 Q Do you see her in the courtroom?

13 A Yes. She is right there in the front row.

14 Q And how long have you known his wife?

15 A Same time I have known Bill.

16 Q And have you had occasion to socialize with
17 Bill and his family?

18 A Occasionally. Not too often.

19 Q Have you had occasion to meet many of the
20 people that also know and meet with Bill Doulin?

21 A Oh, yes.

22 Q And are you familiar with -- do you have many
23 friends or acquaintances in your community?

24 A Do I?

25 Q Yes.

A I hope so.

Q Are many of them acquaintances and friends of Mr. Doulin?

A Some of them, yes.

Q Do you know any other members of his family?

A Not very well, no. I know his brother slightly.

Q Are you familiar or do you know --

PLATZMAN: I withdraw the question.

Q Do you know Mr. Doulin's reputation in the community, Orange County --

A Yes, I do.

Q -- for honesty?

A Yes, I do. It's excellent.

Q Tell us what it is.

THE COURT: He has.

Q Do you know what his reputation in Orange County is for truthfulness?

A I'd say excellent.

Q How about within Newburgh itself?

A He was elected to office by the citizens. They certainly must have thought so.

Q That is your opinion concerning his reputation?

A It certainly is.

MR. JOSSEN: Objection, your Honor.

4 GWmch

Reed-direct/cross

THE COURT: Overruled. He is entitled under the new rules to reflect his opinion.

MR. PLATZMAN: No other questions.

CROSS-EXAMINATION

BY MR. JOSSEN:

Q Mr. Reed, have you heard that there has been testimony by a witness in another case in this courthouse that the witness had a conversation with a gambler in which the gambler said he was tired of sending Mr. Doulin to Florida for the last twenty years?

MR. PLATZMAN: I object to this. I object to the posing of the question. I think it is highly prejudicial. It is not in this case. There is no such testimony.

I think the attempt by counsel to introduce this evidence in this fashion is wrong and I respectfully request the Court declare a mistrial.

MR. JOSSEN: Your Honor --

THE COURT: There is no need to comment. The law is clear.

But I would admonish the jury, ladies and gentlemen, we will wait for an answer to the question.

Questions are not evidence and if there is no affirmative answer the question should be disregarded and stricken from

your mind.

Do you know that, sir?

THE WITNESS: Your Honor, I don't know what he is talking about.

THE COURT: Very well.

Q Mr. Reed --

MR. PLATZMAN: May it please the Court, I renew my motion.

THE COURT: Your motion is in all respects denied.

The admonition to the jury is reiterated. Questions are not evidence. Answers are what make the record.

Q Mr. Reed, have you heard there has been testimony by a witness in another case in this courthouse that the witness had a conversation with a gambler, in which the gambler told him that he was paying Mr. Doulin \$600 and \$700 a week in gambling payoffs?

MR. PLATZMAN: If it please the Court, the same objection, the same motion.

THE COURT: I will hear the iwtness' answer and then I will respond.

THE WITNESS: Isn't that the same question he asked me before?

6 GwMch

Reed-cross

THE COURT: Do you know anything about it?

THE WITNESS: No, I do not.

THE COURT: Very well.

Ladies and gentlemen, questions are not evidence; only the answers are evidence. There is no evidence of what was just said of any probative value before you. I direct that you disregard and wipe out from your mind the last question put by Mr. Jossen.

MR. JOSSEN: May I have a moment, your Honor?

THE COURT: Yes.

(Pause)

MR. JOSSEN: Your Honor, may we approach the side bar for a moment?

THE COURT: Yes.

(At the side bar)

MR. JOSSEN: Your Honor, so that the record is clear, this relates back to the conversation on the record which we had in the robing room earlier, at which time the Government advised the Court and defense counsel that the Government had a good-faith basis for believing that there was in fact testimony of the kind which I summarized in my question to the witness.

Now, it is my concern that your Honor's instruction to the jury suggests that there was something

7 Gwmch

Reed-cross
Ryan-direct

improper about the question. The question, of course, the basis for such a question on cross-examination of a character witness is for the jury to evaluate what the witness has taken into account in considering the reputation or his opinion of the defendant on the standard of integrity in the community.

It seems to me your Honor's instruction to the jury does not satisfy that aspect of the rule which allows such inquiry.

THE COURT: The instruction will stand as given.

(In open court)

MR. JOSSEN: No further questions.

MR. PLATZMAN: Thank you, Mr. Reed.

THE COURT: Thank you, sir. You are excused.

(Witness excused)

MR. PLATZMAN: Mr. Ryan, please.

W I L L I A M D. R Y A N, called
as a witness by the Government, being first duly
sworn, testified as follows:

THE COURT: You may proceed, Mr. Platzman.

DIRECT EXAMINATION

BY MR. PLATZMAN:

Q Mr. Ryan, where do you reside?

A I reside at 31 Concord Street, Newburgh, New York.

I am a lifelong resident of the city.

Q And how long have you resided at that address?

A About 25 years.

Q And were you born in Newburgh?

A A native.

Q How long ago?

A 62 years ago.

Q What is your trade?

A I am presently employed with the W. T. Grant Company in Vails Gate, New York.

Q How long?

A Eight years.

THE COURT: As what?

THE WITNESS: As a furniture consultant; in other words, a salesman.

Q You have been there eight years?

A Yes, sir.

Q Was there ever a time when you held public office?

A Yes, sir. I was mayor of the City of Newburgh for two four-year terms from 1956 to 1963. I was a Democratic mayor with an all Republican council, and one of the council members happened to be Bill Doulin.

Q You stated you are a member of the Democratic

party?

A That is correct.

Q You were Democratic mayor of Newburgh?

A That's right. In fact, when I ran for reelection in 1959, Mr. Doulin was my opponent.

Q And who won?

A I beat him overwhelmingly by about 1800 votes.

Q And what year was that?

A 1959.

Q So during this period he was an adversary of yours?

A Right.

Q And did you continue to remain a member of the Democratic party?

A Oh, yes.

Q Still are?

A Oh, yes. In fact, I have been the Democratic chairman for two terms.

Q And do you back candidates that are opposed by candidates backed by Mr. Doulin?

A Yes, I have.

MR. JOSSEN: Objection, your Honor.

THE COURT: It has been answered. I will let it stand.

1 10 GwMch

Ryan-direct

2 Q When did you first meet Mr. Doulin?

3 A I think I have known Mr. Doulin practically all
4 my life.

5 Q Do you know his family?

6 A Yes, I do.

7 Q Do you know his wife?

8 A Yes, I do.

9 Q Do you see her in the courtroom?

10 A Yes, I do.

11 Q Will you point her out to us, please?

12 A She is that attractive gray-haired lady with
13 the pink suit on.

14 Q Do you know his children? Do you know any of
15 his children?

16 A No, I do not, not personally. I know of them.

17 Q Of what associations are you a member? Are
18 you a member of any other organizations other than the
19 Democratic party?

20 A Yes, the Knights of Columbus, Holy Name Society.
21 That's about it.

22 Q Is Mr. Doulin a member of either of these
23 organizations?

24 A I believe he is a member of the Knights of
25 Columbus, but he is not a member of the same Holy Name

2 Society I belong to.

3 Q A different one?

4 A Yes. I am a parishioner at St. Patrick's
5 Church in Newburgh, and I believe Mr. Doulin is a parishioner
6 of St. Mary's or St. Francis. I am not sure.

7 Q Are you a member of any other organization that
8 you can recall at the moment?

9 A No.

10 Q Have you from time to time met and been in
11 contact within the City of Newburgh with people that have
12 met and been in contact with and know Mr. Doulin?

13 A Yes, I have.

14 Q Do you know many people in Newburgh?

15 A I think I must, yes.

16 THE COURT: You know 1800 more than he does.

17 THE WITNESS: That's correct. In fact, I was
18 recently called for jury duty, and the judge said,
19 "We will have to excuse this man. He knows half the
20 people of Orange County and the other half know him."

21 Q And these are people that also know Bill Doulin?

22 A Yes.

23 Q Mr. Ryan, do you know Mr. Doulin's reputation
24 in Newburgh --

25 A Yes.

Q -- for honesty?

A Yes.

Q Can you tell us what that reputation is?

A He enjoys a very good reputation as far as I know. Nothing derogatory about him.

Q How about in Newburgh itself?

A In the City of Newburgh itself, yes.

Q And can you tell us whether you know what his reputation for truthfulness is in Orange County?

A I found him over the years to be very forthright and trustworthy and honest. I have my political battles with him, but after the battles were over, he spoke his piece, and that was it.

Q Is that also true with respect to his reputation in Newburgh itself?

A Yes, it is.

Q In your opinion, is his reputation of the highest?

A Very highest, yes.

MR. PLATZMAN: No other questions.

CROSS-EXAMINATION

BY MR. JOSSEN:

Q Mr. Ryan, are you familiar with the facts in this case?

13 Gwmcch

Ryan-cross

A Pardon?

Q Are you familiar with the facts in this case?

A Only from what I read in the paper

Q Mr. Ryan, is it fair to say that you are Mr. Doulin's counterpart in the Democratic party in Orange County?

A No.

Q Are you Mr. Doulin's counterpart in Newburgh in the Democratic party?

A I was at one time the Democratic city chairman, which is different from the county.

MR. JOSSEN: No further questions.

MR. PLATZMAN: Thank you very much.

THE COURT: You are excused, Mr. Ryan. You may leave.

(Witness excused)

MR. PLATZMAN: Mr. Doulin.

THE COURT: Mr. Doulin, resume the stand, please.

W I L L I A M E. D O U L I N, resumed.

MR. PLATZMAN: May we have the last two or three questions read?

THE COURT: That will be hard because we change reporters. My recollection is when the recess was requested you had started to ask Mr. Doulin when he first became

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14. Gwch

Ryan-cross

1164

aware of Richard Monell's assault case.

I think I am pretty close. I may be a question
off, but that's about where you were.

(Continued on next page)

Service of ONE COPY ~~copies~~ of the
within APPENDIX is hereby
admitted this 29th day of
MARCH 1976
Signed _____
Attorney for APPELLEE



